United Nations

Report of the Committee on the Elimination of Racial Discrimination

General Assembly
Official Records • Fifty-second Session
Supplement No. 18 (A/52/18)

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LETTER OF TRANSMITTAL

26 August 1997

Sir,

The Committee on the Elimination of Racial Discrimination was, in 1994, among the first bodies within the United Nations system to express concern about the dangerous situation that was developing within the Great Lakes region of Africa. As we wrote to your predecessor in August of that year, it would have been better had preventive action been taken before open hostilities broke out. Since then, atrocious human rights abuses within the region have multiplied. Improved methods for preventing such disasters must be identified.

The Committee's priorities remain: the examination of reports under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination; prevention of racial discrimination, including early warning and urgent procedures; action on communications under article 14 of the Convention; and the implementation of the Convention in States whose reports are seriously overdue. We report on these in chapters II, III and IV. We have also this year adopted an important General Recommendation to States parties about reporting on the protection of the rights of indigenous peoples; this is to be found in annex V to the present report. Indigenous people are often unable to attract attention to abuses of their human rights and they deserve the assistance of the international community.

Encouraged by paragraph 4 of General Assembly resolution 51/80, the Committee, at its fifty-first session, started the process of reviewing implementation of the Convention in States whose initial reports are overdue by five years or more. Many of these States parties have diplomatic representation in New York but not in Geneva. The absence of representatives in Geneva makes it difficult for the Committee to communicate with them and for them to participate in the process of monitoring the implementation of human rights treaties. The Committee therefore requests you, and the States parties to the Convention, to make it possible for the Committee to meet occasionally in New York in order to schedule the consideration of reports from States in this position. The Committee also requests you to see whether in other ways you can assist these States to fulfil their reporting obligations.

On behalf of the Committee, I draw your attention to chapter VI, which contains the results of the Committee's review of its contribution to the more effective implementation of international instruments on human rights. The Committee has no backlog of unconsidered State reports. It continues to advise States parties of their legal obligations to prevent discrimination on grounds of race and ethnic or national origin. It adapts its working methods to the changing situation within the United Nations and in the wider world.

(Signed) Michael Banton
Chairman
Committee on the Elimination
of Racial Discrimination

His Excellency Mr. Kofi Annan
Secretary-General of the
United Nations
New York

I. ORGANIZATIONAL AND RELATED MATTERS

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination

1. As at 22 August 1997, the closing date of the fifty-first session of the Committee on the Elimination of Racial Discrimination, there were 148 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly in resolution 2106 A (XX) of 21 December 1965 and opened for signature and ratification in New York on 7 March 1966. The Convention entered into force on 4 January 1969 in accordance with the provisions of its article 19.

2. By the closing date of the fifty-first session, 24 of the 148 States parties to the Convention had made the declaration envisaged in article 14, paragraph 1, of the Convention. Article 14 of the Convention entered into force on 3 December 1982, following the deposit with the Secretary-General of the tenth declaration recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals who claim to be victims of a violation by the State party concerned of any of the rights set forth in the Convention. The States parties to the Convention and those that have made the declaration under article 14 are listed in annex I to the present report, as are the States parties (23) that have accepted the amendments to the Convention adopted at the Fourteenth Meeting of States Parties, as at 22 August 1997.

B. Sessions and agenda

3. The Committee on the Elimination of Racial Discrimination held two regular sessions in 1997. The fiftieth (1185th-1214th meetings) and fifty-first (1215th-1244th meetings) sessions were held at the United Nations Office at Geneva from 3 to 21 March and from 4 to 22 August 1997, respectively.

4. The agendas of the fiftieth and fifty-first sessions, as adopted by the Committee, are reproduced in annex II.

C. Membership and attendance

5. In accordance with the provisions of article 8 of the Convention, the Sixteenth Meeting of the States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination was held at United Nations Headquarters on 16 January 1996[1] and elected nine members of the Committee from among the candidates nominated to replace those whose term of office was due to expire on 19 January 1996.

6. The members of the Committee for 1996-1998, including those elected or re-elected on 16 January 1996, are the following:

Name of member	Country of nationality	Term expires on 19 January
Mr. Mamoud ABOUL-NASR	Egypt	1998
Mr. Hamzat AHMADU	Nigeria	1998
Mr. Michael Parker BANTON	United Kingdom of Great Britain and Northern Ireland	1998
Mr. Theodoor van BOVEN**	Netherlands	2000
Mr. Andrew CHIGOVERA	Zimbabwe	1998
Mr. Ion DIACONU**	Romania	2000
Mr. Eduardo FERRERO COSTA**	Peru	2000
Mr. Ivan GARVALOV**	Bulgaria	2000
Mr. Régis de GOUTTES	France	1998
Mr. Carlos LECHUGA HEVIA	Cuba	1998
Mr. Yuri A. RECHETOV**	Russian Federation	2000
Mrs. Shanti SADIQ ALI**	India	2000
Mr. Agha SHAHI	Pakistan	1998
Mr. Michael E. SHERIFIS	Cyprus	1998
Mr. Luis VALENCIA RODRIQUEZ**	Ecuador	2000
Mr. Rüdiger WOLFRUM	Germany	1998
Mr. Mario Jorge YUTZIS**	Argentina	2000
Ms. ZOU Deci*	China	2000

7. All the members of the Committee attended the fiftieth session. At the fifty-first session, all the members of the Committee attended with the exception of Mr. Ferrero Costa. Mr. Chigovera attended only part of the fifty-first session.

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* Elected on 16 January 1996.

** Re-elected on 16 January 1996.

D. Officers of the Committee on the Elimination of Racial Discrimination

8. At its 1128th and 1136th meetings, on 26 February and 1 March 1996, the Committee elected the following officers for a term of two years (1996-1998), in accordance with article 10, paragraph 2, of the Convention:

Chairman: Mr. Michael Parker BANTON

Vice-Chairmen: Mr. Eduardo FERRERO COSTA
Mr. Ivan GARVALOV
Ms. Shanti SADIQ ALI

Rapporteur: Mr. Andrew R. CHIGOVERA

E. Cooperation with the International Labour Organization and the United Nations Educational, Scientific and Cultural Organization

9. In accordance with Committee decision 2 (VI) of 21 August 1972 concerning cooperation with the International Labour Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO),[2] both organizations were invited to attend the sessions of the Committee.

10. Reports of the ILO Committee of Experts on the Application of Conventions and Recommendations, submitted to the International Labour Conference, were made available to the members of the Committee on the Elimination of Racial Discrimination, in accordance with arrangements for cooperation between the two Committees. The Committee took note with appreciation of the reports of the Committee of Experts, in particular of those sections which dealt with the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Indigenous and Tribal Peoples Convention, 1989 (No. 169), as well as other information in the reports relevant to its activities.

F. Other matters

11. At its 1185th meeting (fiftieth session), held on 10 March 1997, the Committee paid tribute to the memory of Mr. Karl Josef Partsch, Mr. Nicolás de Piérola y Balta, and Mr. André Dechezelles, all former member of the Committee, and asked the Chairman to send a letter of condolences to their families.

12. The Officer-in-Charge of the United Nations High Commissioner for Human Rights/Centre for Human Rights attended the 1214th meeting, held on 21 March 1997, and discussed a number of issues with the Committee, particularly how the restructuring of the Centre for Human Rights could assist the Committee in dealing with its growing workload (see CERD/C/SR.1214).

G. Adoption of the report

13. At its 1243rd meeting, held on 22 August 1997, the Committee adopted its annual report to the General Assembly.

II. PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES

14. The Committee decided at its forty-first session to establish as one of its regular and principal agenda items the item on prevention of racial discrimination, including early warning and urgent procedures.

15. At its forty-second session (1993), the Committee noted the conclusion adopted by the fourth meeting of persons chairing the human rights treaty bodies that:

> '... the treaty bodies have an important role in seeking to prevent as well as to respond to human rights violations. It is thus appropriate for each treaty body to undertaken an urgent examination of all possible measures that it might take, within its competence, both to prevent human rights violations from occurring and to monitor more closely emergency situations of all kinds arising within the jurisdiction of States parties. Where procedural innovations are required for this purpose, they should be considered as soon as possible.' (A/47/628, para. 44)

16. As a result of its discussion of that conclusion of the meeting of chairpersons, the Committee, at its 979th meeting, held on 17 March 1993, adopted a working paper to guide it in its future work concerning possible measures to prevent, as well as more effectively respond to, violations of the Convention.[3] The Committee noted in its working paper that efforts to prevent serious violations of the International Convention on the Elimination of All Forms of Racial Discrimination would include the following:

(a) Early-warning measures: these would be aimed at addressing existing problems so as to prevent them from escalating into conflicts and would also include confidence-building measures to identify and support structures to strengthen racial tolerance and solidify peace in order to prevent a relapse into conflict in situations where it has occurred. In that connection, criteria for early warning could include some of the following: the lack of an adequate legislative basis for defining and criminalizing all forms of racial discrimination, as provided for in the Convention; inadequate implementation of enforcement mechanisms, including the lack of recourse procedures; the presence of a pattern of escalating racial hatred and violence, or racist propaganda or appeals to racial intolerance by persons, groups or organizations, notably by elected or other officials; a significant pattern of racial discrimination evidenced in social and economic indicators; and significant flows of refugees or displaced persons resulting from a pattern of racial discrimination or encroachment on the lands of minority communities;

(b) Urgent procedures: these would aim at responding to problems requiring immediate attention to prevent or limit the scale or number of serious violations of the Convention. Possible criteria for initiating an urgent procedure could include a serious, massive or persistent pattern of racial discrimination or a serious situation in which there is a risk of further racial discrimination.

17. At its 1028th and 1029th meetings, held on 10 March 1994, the Committee considered possible amendments to its rules of procedure which would take into account the working paper it had adopted in 1993 on the prevention of racial discrimination, including early warning and urgent procedures. During the discussions which followed, the view was expressed that it was too early to make

changes in the rules of procedure in order to take account of procedures adopted only very recently. There was a risk that the Committee might be locking itself into rules which would soon no longer fit its needs. It would therefore be better for the Committee to have more experience with the procedures in question and to amend its rules at a later point on the basis of that experience. At its 1039th meeting, on 17 March 1994, the Committee decided to postpone to a later session further consideration of proposals to amend its rules of procedure.

18. The following sections describe decisions adopted and further action taken by the Committee at its fiftieth and fifty-first sessions within the framework of its efforts to prevent racial discrimination. At earlier sessions, the Committee had commenced consideration under this agenda item of Algeria, Bosnia and Herzegovina, Burundi, Croatia, Cyprus, Israel, Liberia, Mexico, Papua New Guinea, Russian Federation, Rwanda, the former Yugoslav Republic of Macedonia and Yugoslavia.

19. At its fiftieth session, the Committee reviewed the situation in Burundi, Bosnia and Herzegovina and Rwanda, and conducted a dialogue with representatives of the States parties concerned. The Committee, however, took no formal action. At its fifty-first session, the Committee reviewed the situation in Bosnia and Herzegovina, Democratic Republic of the Congo, Israel and Papua New Guinea and adopted the following decisions.

Decisions adopted by the Committee at its fifty-first session

Decision 1 (51) on Israel

1. The Committee repeats its full endorsement of the Israel-Palestine Liberation Organization peace process and again expresses the opinion that the principles and obligations of the International Convention on the Elimination of All Forms of Racial Discrimination should be an essential ingredient of the peace process. The Committee calls on the parties in the peace process to observe and implement faithfully the Declaration of Principles on Interim Self-Government Arrangements signed by Israel and the Palestine Liberation Organization on 13 September 1993, the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip of 28 September 1995 and other Israel-Palestine Liberation Organization agreements.

2. The Committee confirms its view that the Israeli settlements in the occupied territories are not only illegal under international law but also an obstacle to peace and the enjoyment of human rights by the whole population in the region, without distinction as to national or ethnic origin, in accordance with the Convention. The Committee expresses its serious concern that the continuing policies of expansion of settlements and notably the establishment of an Israeli settlement on Jabal Abu Ghenaim in East Jerusalem, all of which change the physical character and demographic composition of the occupied territories, including Jerusalem, give rise to increasing tensions in the region and jeopardize the peace process.

3. The Committee again condemns in the strongest terms terrorism in all its forms. It abhors acts which result in the indiscriminate killing of innocent people, and reiterates that there is no justification whatsoever for such acts. The Committee emphasizes the necessity that all appropriate measures be taken, including those prescribed in article 4 of the Convention, against extremist and terrorist organizations that promote racial hatred, incite to violence and commit terrorist acts. Further, the Committee urges all States parties to

prevent such organizations from conducting any activities, including training, recruiting, and fund-raising, in territories under their control.

4. The Committee rejects the closures and blocking of reimbursement of fees and revenues to the Palestinian Authority, imposed by the Israeli authorities on the occupied territories in the wake of the dreadful suicide bombings in Jerusalem on 30 July 1997, that amount to collective punishment contrary to article 33 of the Fourth Geneva Convention.[4] Those closures and related measures severely restrict the movement of people and goods in Gaza and the West Bank and result in depriving large numbers of Palestinians from their legal employment and in blocking essential revenues and customs duties owed to the Palestinian Authority. The measures taken by Israel have a devastating effect on the life and well-being of the Arab population of the occupied territories and cause great suffering.

5. The Committee holds that those measures amount to collective punishment and constitute serious obstacles to the peace process, and it urges the Government of Israel to lift those measures forthwith.

6. The Committee welcomes the continuation of the constructive dialogue carried forward with representatives of Israel, and it is ready to contribute to any confidence-building measures which commend themselves in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination.

1236th meeting
18 August 1997

Decision 2 (51) on Bosnia and Herzegovina

1. The Committee on the Elimination of Racial Discrimination discussed the situation in Bosnia and Herzegovina in the context of the principles and objectives of the International Convention on the Elimination of All Forms of Racial Discrimination. The Committee reaffirmed its decisions 1 (48) and 1 (49), adopted with a view to offering its contribution to the implementation of the General Framework Agreement for Peace in Bosnia and Herzegovina drawn up at Dayton and signed in Paris on 14 December 1995.

2. The Committee notes with great concern that little progress has been made in the implementation of the Peace Agreement. Bosnia and Herzegovina remains a deeply divided country, with boundaries not very different from confrontation lines between the entities and with clear patterns of discrimination and separation based on national or ethnic origin, which is contrary to the basic principles of the International Convention on the Elimination of All Forms of Racial Discrimination.

3. The Committee is also deeply concerned that in spite of the guarantees in the Peace Agreement, annex 7, concerning the right of all refugees and displaced persons to freely return to their homes of origin, serious obstacles to return continue to exist in Bosnia and Herzegovina, and that property laws which conflict with the Peace Agreement remain in effect in the two principal entities of Bosnia and Herzegovina. In this connection, the Committee draws the attention of all parties concerned to its General Recommendation XXII (49), in particular paragraphs 2 (a), (b) and (c).

4. The Committee is profoundly disturbed that little progress is being made in the apprehension of persons indicted by the International Tribunal for the

Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia. The Committee again urges all parties to the Peace Agreement to comply with their obligation to cooperate fully with the Tribunal in fulfilling its task of bringing to justice all persons guilty of the serious crimes falling within its jurisdiction and, in particular, to execute forthwith all warrants of arrests and expedite the transfer of the persons indicted by the Tribunal.

5. The Committee decides to remain seized of the situation in Bosnia and Herzegovina under its agenda item on prevention of racial discrimination, including early warning and urgent procedures, and expresses the wish that the State party concerned will be present at the next examination of that situation.

1236th meeting
18 August 1997

Decision 3 (51) on the Democratic Republic of the Congo

1. The concluding observations (CERD/C/304/Add.18), adopted by the Committee on 21 August 1996, in particular the grave concern expressed therein, are reiterated. The recommendations made by the Committee in this context remain valid.

2. The Committee is disturbed by reports of massacres and other grave human rights violations, including violation of the Convention on the Elimination of All Forms of Racial Discrimination in the Democratic Republic of the Congo. Such reports, in particular the report submitted by the joint mission established by the Commission on Human Rights in its resolution 1997/58 of 15 April 1997, charged with investigating allegations of massacres and other human rights violations occurring in the eastern part of Zaire (now the Democratic Republic of the Congo) since September 1996 (A/51/942 of 2 July 1997) were discussed. The findings in that report, according to which there were "reliable indications that persons belonging to one or other of the parties to the conflict in eastern Zaire, now the Democratic Republic of the Congo, probably committed serious violations of international humanitarian law ...." (para. 95); that "crimes seem to be sufficiently massive and systematic to be characterized as crimes against humanity" (para. 95); and that the "ethnic identity of most of the victims is a matter of record" (para. 96) were particularly noted.

3. The Committee is alarmed about reports of the disappearance of very large numbers of refugees in the eastern part of the country and ongoing human rights violations.

4. The Committee hopes that the new investigative team established by the Secretary-General may be able to act effectively and that the Government of the Democratic Republic of the Congo will cooperate with that team.

5. The Committee decides to remain seized of the situation in the Democratic Republic of the Congo under its agenda item on prevention of racial discrimination, including early warning and urgent procedures. It will discuss it at its fifty-second session (2-20 March 1998) on the basis of all relevant information to be provided by the Secretariat and expresses the hope that the State party concerned will be present at the next examination of this situation.

1240th meeting
20 August 1997

Decision 4 (51) on Papua New Guinea

1. At its 1242nd meeting, held on 21 August 1997 (CERD/C/SR.1242), the Committee reviewed the implementation of the Convention by Papua New Guinea, under its agenda item on prevention of racial discrimination.

2. Papua New Guinea's initial report (CERD/C/101/Add.4) was considered by the Committee in 1984. The Committee subsequently considered the situation in the State party in 1994 under its agenda item on prevention of racial discrimination.[5]

3. Despite the Committee's repeated requests,[6] Papua New Guinea has regrettably not submitted an up-to-date report or any information requested on the issue of Bougainville.

4. The Committee is aware that the Government of Papua New Guinea requested the Secretary-General to send his representative to assist with a new round of discussions between the Government and the main Bougainvillean parties.

5. The Committee is appreciative of the efforts of the Secretary-General's representative to assist with a new round of discussions between the Government of the State party and the main Bougainvillean parties (see E/CN.4/1996/58), and it notes the visit of the Commission on Human Rights' Special Rapporteur on extrajudicial, summary and arbitrary executions to the State party (see E/CN.4/1996/4/Add.2).

6. The Committee condemns and regrets the killing of the premier of the Bougainville Transitional Government, Mr. Theodore Miriung, on 12 October 1996 by unidentified assailants, which resulted in a serious setback for all the efforts to find a solution of the Bougainville problem.

7. The Committee wishes to encourage any further effort to resume the discussions between the parties involved in the Bougainville conflict.

8. The Committee once again requests the State party to submit its report under article 9 (1) of the Convention, as well as to supply information specifically on the situation in Bougainville under its prevention of discrimination procedures, so that the Committee can examine them in 1998.

9. The Committee wishes to suggest that the State party may wish to avail itself of the technical assistance offered under the advisory services and technical assistance programme of the United Nations High Commissioner for Human Rights/Centre for Human Rights, with a view to drawing up and submitting its report.

1242nd meeting
21 August 1997

III. CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

20. At its fiftieth and fifty-first sessions, the Committee considered reports, comments and information from 35 States parties under article 9 of the Convention. Country rapporteurs are listed in annex VI.

United Kingdom of Great Britain and Northern Ireland

21. The Committee considered the fourteenth periodic report of the United Kingdom of Great Britain and Northern Ireland (CERD/C/299/Add.9) at its 1185th and 1186th meetings (CERD/C/SR.1185 and 1186), held on 3 and 4 March 1997. At its 1204th and 1209th meetings, held on 14 and 19 March 1997, it adopted the following concluding observations.

A. Introduction

22. The Committee welcomes the opportunity to continue its dialogue with the State party. It also welcomes its fourteenth periodic report and notes with appreciation that information on Crown Dependencies and Dependent Territories is contained therein. The Committee notes with great appreciation that the report provides answers in detail to concerns expressed and recommendations made by the Committee in its concluding observations following the consideration of the thirteenth periodic report of the State party (see CERD/C/263/Add.7 and paras. 219-255 of the Committee's 1996 report to the General Assembly).[7] The Committee further welcomes the comprehensive answers provided by the delegation in the course of the dialogue.

23. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention, and some of its members requested that the possibility of making such a declaration be considered.

B. Factors and difficulties impeding the implementation of the Convention

24. It is noted that the position maintained by the Government with regard to the non-incorporation of the full substance of the Convention within the domestic legal order, as well as its restrictive interpretation of the provisions of article 4 of the Convention, may hamper the full implementation of the provisions of the Convention.

25. Moreover, it is noted that the occurrence of racism and racially motivated attacks, as well as incidents directed against members of ethnic minorities, impede the implementation of the Convention.

C. Positive aspects

26. The various measures taken to increase the participation of members of ethnic minorities in public and government office and in the police are welcomed by the Committee. The adoption of the Housing Act of 1996 to combat racial discrimination in the field of housing, the setting up of lay visiting schemes

which encompass inspection and supervision of detention in police stations by members of local communities to prevent and combat ill-treatment in custody, the drafting of changes in the code of practice which regulates police powers and procedures in the exercise of stop and search exercises, the creation of a Racial Incidents Standing Committee to implement the report of the Racial Attacks Group to combat racially motivated incidents, and the adoption of a 10-point action plan to raise the achievement of ethnic minority pupils following the publication of a report by the Office for Standards in Education are noted with appreciation by the Committee.

27. With respect to article 7 of the Convention, the holding of seminars and the setting up of training programmes for judges, magistrates and law enforcement officials, provided in particular by the Ethnic Minorities Advisory Committee and the Police Training Centres, which are aimed at the elimination of racial discrimination from the relationships between members of those professions and members of ethnic minorities, are welcomed by the Committee. The launching of a number of information campaigns against racial discrimination addressed to the public at large or to specific sectors of the public (such as the "Lets kick racism out of football" campaign) is also welcomed by the Committee.

28. The adoption of the Race Relations (Northern Ireland) Order of 1997 is noted, all the more so since it contains special provisions relating to the Irish Traveller communities. The fact that direct access to the courts and industrial tribunals is granted for violations of the provisions of the Order outlawing racial discrimination in the fields of employment, training, education and housing and in the provision of goods and services is also welcomed by the Committee.

29. It is noted with satisfaction that, in accordance with the Committee's recommendations, the United Kingdom Government requested the authorities of the Crown Dependencies and the Dependent Territories to consider the introduction of specific legislation against racial discrimination within their respective legal orders and that, to this effect, it provided them with draft model legislation in line with its Race Relations Act of 1976. It is further noted with satisfaction that some of those authorities have acceded to that request – those of Anguilla, Bermuda, the British Virgin Islands, the Falkland Islands and Saint Helena.

30. The adoption of the British Nationality (Hong Kong) Bill, which grants the right to members of ethnic minorities in Hong Kong who have no other nationality than their present British nationality to be registered as full British citizens and thus to enjoy the right of abode in the United Kingdom, is noted with appreciation by the Committee.

31. It is also noted with satisfaction that, after 140 years, equal status has been accorded to Chinese with English in the Hong Kong courts at all levels and that the Hong Kong government is undertaking the translation into Chinese of all the laws adopted in Hong Kong before 1989.

32. It is noted with satisfaction that the Hong Kong government is now providing education up to the secondary level to Vietnamese migrants in Hong Kong and that education services are provided to all Vietnamese children in the detention centres free of charge. The fact that the syllabus takes into account the future reintegration of those children into the Vietnamese education system on their return to Viet Nam is viewed as a positive measure by the Committee.

D. Principal subjects of concern

33. Concern is expressed that full effect has not been given to the provisions of the Convention within the domestic legal order and that individuals cannot be protected from any discriminatory practices that have not been prohibited by Parliament.

34. Special concern is again expressed at the restrictive interpretation by the Government of the provisions of article 4 of the Convention. In this regard, it is noted that such an interpretation is in conflict with the State party's obligations under article 4 (b) of the Convention to prohibit organizations which promote and incite racial discrimination and to declare the participation therein an offence and is not in accord with the Committee's General Recommendation XV (42).

35. Concern is expressed that the race relations legislation concerning Northern Ireland tabled in Parliament contains two grounds for exemption, namely, public order and public safety, which are additional to the ones already enshrined in the Race Relations Act of 1976, and that bodies working in the field of health, education, social services, planning and housing do not have the same positive legal duty to eliminate discrimination as that which applies to local authorities in Britain.

36. Concern is expressed by the Committee with respect to the continuing failure to incorporate questions relating to the racial or ethnic origin of persons in the Northern Ireland population census questionnaires. The Committee is of the view that the identification of minority groups and the analysis of their civil, political, economic and social status are a precondition for identifying the difficulties that they may be facing and for assessing whether and how such difficulties may be due to racial discrimination, and thus for evaluating the need to adopt specific measures, laws and regulations to overcome those difficulties.

37. With respect to the effective enjoyment of the rights provided for in article 5 of the Convention by all parts of the population without discrimination, concern is expressed at remaining instances of racial discrimination in the field of employment, notably the opportunities for professional promotions, in the private as well as in the public sectors, in the fields of housing and education, in the exercise of stop and search powers by the police, and with respect to occurrences of ill-treatment by the police.

38. It is noted with concern that the implementation of some of the provisions of the Asylum and Immigration Act of 1996 may be detrimental to the protection of asylum seekers against any racial discrimination. In this regard, particular concern is expressed at the fact that asylum claims may a priori be considered to be unfounded, and thus be dealt with more swiftly, when the claimants come from certain countries considered by the United Kingdom not to "generally give rise to a serious risk of persecution", and at the fact that no right of in-country appeal is granted to asylum seekers sent back to certain safe third countries. Moreover, while noting the assurances provided in the report that the Asylum and Immigration Act of 1996 in itself will not affect the United Kingdom's obligations under the Convention, it is underlined that the definition of racial discrimination under article 1, paragraph 1, of the Convention includes the effect as well as the purpose of an act, and it is thus noted that the Asylum and Immigration Act of 1996, in its effects, may be contrary to the Convention.

39. Concern is also expressed that specific legislation against racial discrimination is not yet available in all the Dependent Territories and Crown Dependencies and that in some cases such legislation should be deemed unnecessary by the relevant authorities on the ground of the alleged non-existence of racial discrimination in the territories.

40. The absence of a provision in the Hong Kong Bill of Rights Ordinance protecting persons from racial discrimination to which they may be subjected by private persons, groups or organizations is a matter of concern to the Committee. In this regard, it is stressed that article 2, paragraph 1 (d), of the Convention makes it an obligation for States parties to prohibit, including by the adoption of legislation, racial discrimination "by any persons, group or organization".

41. With respect to the "two-week rule" applying to foreign workers in Hong Kong, which prohibits them from seeking employment or remaining in Hong Kong more than two weeks after the expiration of their employment contracts, concern is expressed that such a rule may have discriminatory effects, since it applies mostly to domestic workers of Filipino origin, and that it may leave the workers concerned extremely vulnerable and in precarious conditions.

E. Suggestions and recommendations

42. The Committee recommends that the State party consider giving full effect to the provisions of the Convention in its domestic legal order.

43. The Committee reaffirms that the provisions of article 4 of the Convention are mandatory, as noted in its General Recommendation VII (32). The Committee stresses that the United Kingdom should again consider the possibility of adopting the necessary legislation as requested by the provisions of article 4. In doing so, the Government should take into account the Committee's General Recommendation XV (42).

44. The Committee recommends that questions relating to the racial or ethnic origin of persons be incorporated in the questionnaires established within the framework of the population census in all the territories under the jurisdiction of the United Kingdom. In this regard, the Committee stresses that such information is useful for the effective assessment of progress achieved towards the full implementation of the provisions of the Convention for the benefit of all groups of the population.

45. The Committee recommends that the United Kingdom continue and strengthen its efforts towards the full enjoyment by all ethnic groups of all the rights provided for in article 5 of the Convention. The Committee recommends in particular that close attention be given to the issue of the deaths in police custody and to the monitoring of the conditions and the treatment of persons detained in police stations.

46. The Committee suggests that in its next report the State party include, for a recent year, (a) a review of the number of cases commenced under the Race Relations Act of 1976 and their outcomes; and (b) information on the number of prosecutions for offences of a racist character, with an indication of sentences imposed in representative cases.

47. The Committee further recommends that the implementation of the Asylum and Immigration Act of 1996 be closely monitored so as to avoid any possible

discrimination against certain categories of asylum seekers and to ascertain that its effects may in no way nullify or impair "the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms" of the persons affected by that Act, in accordance with article 1, paragraph 1, of the Convention.

48. The Committee also recommends that further consideration by given by the authorities of Guernsey, Jersey, the Isle of Man, the Cayman Islands, Montserrat and the Turks and Caicos Islands to the adoption of specific legislation prohibiting racial discrimination, in line with the provisions of the Convention. Noting that racial discrimination is deemed not to exist in some territories, the Committee suggests that the preventive function of the principles laid down in the Convention be given priority in the drafting of any future legislation.

49. The Committee also recommends that special attention be given by the government of Hong Kong to the situation of the foreign workers subject to the "two-week rule" and that all the necessary measures, including the modification or repeal of that specific rule, be undertaken to ensure the protection of all their rights under the Convention.

50. The Committee further recommends that the fourteenth periodic report of the State party, as well as the present concluding observations, be given publicity and be widely disseminated among the public at large.

51. The Committee recommends that the State party's next periodic report, due on 7 March 1998, be a comprehensive report and that it address all the points raised during the consideration of the report.

Afghanistan

52. At its 1189th meeting, held on 5 March 1997 (see CERD/C/SR.1189), the Committee reviewed the implementation of the Convention by Afghanistan based upon its previous report (CERD/C/111/Add.3) and its consideration by the Committee (see CERD/C/SR.718-719). The Committee noted with regret that no report had been submitted to the Committee since 1984.

53. The Committee regretted that Afghanistan had not responded to its invitation to participate in the meeting and to furnish relevant information.

54. The Committee expressed concern that the lack of an effective central authority impedes the implementation of the Convention.

55. The Committee decided that a communication should be sent to the Government of Afghanistan setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.

56. The Committee suggested that the Government of Afghanistan avail itself of the technical assistance offered under the advisory services and technical assistance programme of the United Nations High Commissioner for Human Rights/ Centre for Human Rights, with the aim of drawing up and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

Bahamas

57. At its 1189th meeting, held on 5 March 1997 (see CERD/C/SR.1189), the Committee reviewed the implementation of the Convention by the Bahamas based upon its previous report (CERD/C/88/Add.2) and its consideration by the Committee (see CERD/C/SR.610 and 926). The Committee noted with regret that no report had been submitted to the Committee since 1982, and that the report of the Bahamas was not completely satisfactory to the Committee at that time.

58. The Committee regretted that the Bahamas had not responded in a timely fashion to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of the Bahamas setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.

59. The Committee suggested that the Government of the Bahamas avail itself of the technical assistance offered under the advisory services and technical assistance programme of the United Nations High Commissioner for Human Rights/Centre for Human Rights, with the aim of drawing up and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

Dominican Republic

60. At its 1189th meeting, held on 5 March 1997 (see CERD/C/SR.1189), the Committee reviewed the implementation of the Convention by the Dominican Republic based upon its previous report (CERD/C/165/Add.1) and its consideration by the Committee (see CERD/C/SR.876). The Committee noted with regret that no report had been submitted to the Committee since 1988.

61. The Committee regretted that the Dominican Republic had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of the Dominican Republic setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.

62. The Committee suggested that the Government of the Dominican Republic avail itself of the technical assistance offered under the advisory services and technical assistance programme of the United Nations High Commissioner for Human Rights/Centre for Human Rights, with the aim of drawing up and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

Guatemala

63. The Committee considered the seventh periodic report of Guatemala (CERD/C/292/Add.1) at its 1190th and 1191st meetings (CERD/C/SR.1190 and 1191), held on 5 and 6 March 1997. At its 1210 meeting, held on 19 March 1997, it adopted the following concluding observations.

A. Introduction

64. The Committee welcomes the opportunity to engage in a frank and fruitful dialogue with the Government of Guatemala. The Committee expresses its appreciation of the continuous dialogue with Guatemala during this time of important changes and developments in the State party.

65. The Committee expresses its appreciation for the important information provided in the report and by the delegation in the oral presentation. That information, including recent developments in the State party, enabled the Committee to obtain a better and more up-to-date picture of the situation. Nevertheless, the Committee regrets that the report did not contain sufficient information on the actual practice in the State party with respect to the implementation of the Convention and did not take sufficient account of the concluding observations of the Committee with respect to the previous report.[8]

66. The Committee noted that the State party has not made the declaration provided for in article 14 of the Convention, and some of its members requested that the possibility of making such declaration be considered.

B. Factors or difficulties impeding the implementation of the Convention

67. It is recognized that much needs to be done to overcome the effects of the long-lasting conflict in the State party. Efforts towards the full enforcement of the principles and provisions enshrined in the Convention have been hampered by the difficult circumstances in the country after decades of unrest and civil war. It is acknowledged that the changes need to go beyond disarmament and that attitudes and values related to the culture of violence have to be changed in order to achieve peace. It is noted that the exercise of racial discrimination, especially against indigenous populations, is still prevalent in some parts of the society.

C. Positive aspects

68. It is noted with satisfaction that despite severe economic and social difficulties, considerable efforts are being made to implement the provisions of the Convention.

69. It is appreciated, in particular, that there have been important legal developments recently. A major achievement has been the Agreement on Identity and Rights of Indigenous Peoples and the Agreement for the Resettlement of Uprooted Populations, which were signed in the process of concluding the peace agreements. It is further noted with satisfaction that following the Committee's recommendation, ILO Convention No. 169, concerning indigenous and tribal populations in independent countries, was ratified by the State party in 1996. It is also noted with appreciation that, under the Constitution of the State party, international obligations, including the International Convention on the Elimination of All Forms of Racial Discrimination, prevail over national law. In addition, steps taken to revise the Penal Code to include the prohibition of racial discrimination and to introduce legislation on land rights and the protection of indigenous identity are welcomed.

70. It is noted with appreciation that the military commissions and the civil defence volunteer committees have been dissolved.

71. It is noted with satisfaction that various bodies are being established in order to facilitate racial reconciliation and to promote democratic society based on the principle of equality. It is welcomed in particular that a joint commission has been established and that it consists of members of both the indigenous and non-indigenous populations. The establishment of the Commission on Historic Clarification (Truth Commission) to investigate killings and disappearances during the armed conflict is also welcomed. In this context, it is noted with appreciation that the delegation of Guatemala assured the Committee that military files would be made available to the Truth Commission. It is also noted with satisfaction that a secretariat of indigenous peoples in the public prosecutor's office and a commission on homeless children have been set up.

72. It is noted with satisfaction that the number of complaints on the grounds of human rights violations has decreased.

73. It is noted with appreciation that a large number of people, mainly indigenous, who had fled their lands and the country during the time of armed conflict have returned to the territory of the State party and that the State party has established a fund to assist the returnees in the process of resettlement.

74. The Committee welcomes the stated intent of the delegation of the Government of Guatemala to include a member of the indigenous population in its delegation during the presentation of its next periodic report.

D. Principal subjects of concern

75. Concern is expressed that a climate of violence and intimidation still exists in the State party and that the detrimental effects of that climate are mostly borne by the indigenous population. This seriously jeopardizes the conditions of security of persons as referred to article 5 (b) of the Convention.

76. Concern is express that the recommendations of the Committee concerning the implementation of article 5 of the Convention have not yet been fulfilled by the State party and that the Committee's recommendation that the State party provide detailed information on the implementation of the provisions of the Convention has not been fully complied with.

77. Concern is expressed at the lack of legislation aimed at eliminating racial discrimination, as required by article 2 of the Convention.

78. Concern is equally expressed at the lack of legislation prohibiting incitement to racial discrimination, as required by article 4 of the Convention.

79. Concern is expressed that the indigenous population does not enjoy effective protection and remedies in the national courts from violations of human rights and fundamental freedoms owing to the lack of interpreters and the insufficient availability of public legal defenders.

80. Concern is expressed that officials of the State party continue to enjoy impunity from criminal prosecution for abusing and violating the human rights of poor people, especially indigenous people and women. This has led people to take the law into their own hands and has resulted in a significant number of

lynchings, a situation which reflects the despair and lack of confidence of the population in the effective exercise of justice.

81. Concern is expressed at the situation of land rights in the State party. Despite the Government's efforts the problems of allocation of land and/or compensation continues, especially with respect to the return of lands to the indigenous peoples after the end of the armed conflict. Of special concern are confrontations arising over the ownership of property, in the course of which indigenous peoples have been detained and threatened.

82. It is noted with concern that the previous recommendation of the Committee concerning the training of law enforcement officials in the light of the Committee's General Recommendation XIII has not been implemented.

83. It is noted with concern that adequate and proportionate participation of the indigenous population in Parliament, in the public service and in public life at the national level has not been achieved; in particular, members of indigenous communities are underrepresented among judges and in the administration of justice.

84. Concern is expressed that the widespread dissemination of the periodic report of the State party, as well as the concluding observations of the Committee in the respective languages of the population, has not been fully achieved.

85. Although efforts have been made to promote affirmative measures in the fields of education and training and to provide bilingual education for the entire population, the situation is not yet satisfactory.

E. Suggestions and recommendations

86. The Committee recommends that the State party continue and strengthen efforts to change the climate of violence and to support rapid disarmament.

87. The Committee reiterates its recommendation that the State party fully implement the Convention, particularly its articles 4, 5 and 6, and provide information on its application. It is further suggested that the State party furnish detailed information on the effectiveness of newly adopted laws and newly created bodies on ethnic relations. It is also requested that the State party include in its next report information on complaints received and judgments issued concerning racial discrimination.

88. The Committee recommends that the State party continue the process of incorporating the prohibition of racial discrimination in national legislation, and the adoption of laws to implement the agreement on the identity and rights of indigenous peoples.

89. The Committee recommends that the State party take steps to ensure the effective implementation of new laws and provide for access to the judiciary by all members of the population, in particular by furnishing adequate interpretation services for indigenous people at all levels of judicial proceedings. The Committee reiterates its previous recommendation that the training of law enforcement officials should be improved in the light of the Committee's General Recommendation XIII.

90. The Committee recommends that the authorities of Guatemala take effective measures to end the impunity of State officials who act illegally and to guarantee the availability of remedies and due process for all members of the population.

91. The Committee recommends that efforts should be continued to ensure the full participation of all citizens in public life, in particular in elections, after they have been adequately informed in the respective languages spoken in the State party.

92. The Committee recommends that the State party take measures to ensure a fair and equitable distribution of land, taking into account the needs of the indigenous population, including those persons returning to the territory after the end of the armed conflict.

93. The Committee stresses the importance that land holds for indigenous peoples and their spiritual and cultural identity, including the fact that they have a different concept of land use and ownership. It is suggested that the State party use the provisions of ILO Convention No. 169 as a guideline for resolving land distribution issues and to consider, in the light of that Convention, the question of compensation for properties that cannot be restituted.

94. The Committee suggests that efforts be increased to promote affirmative measures in the fields of education and training and to introduce bilingual education for all parts of the population.

95. The Committee suggests that the State party consider the establishment of a national commission to undertake specific activities in response to recommendations and suggestions made by the Committee.

96. The Committee suggests that widespread publicity be given to the Convention, the periodic reports submitted by the State party and the concluding observations of the Committee, in major languages of the population.

97. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

98. The Committee recalls with appreciation the State party's invitation to have one of its members come to Guatemala to assist the State party in the implementation of the Convention.

99. The Committee recommends that the State party's next periodic report be a comprehensive report and that it provide replies to the questions raised during the consideration of the report.

Belarus

100. The Committee considered the fourteenth periodic report of Belarus (CERD/C/299/Add.8) at its 1192nd and 1193rd meetings (CERD/C/SR.1192 and 1193), held on 6 and 7 March 1997. At its 1210th meeting, held on 19 March 1997, it adopted the following concluding observations.

A. Introduction

101. The Committee welcomes the timely submission of the State party's fourteenth periodic report and expresses its satisfaction to the high-level delegation for the additional information provided in answer to the questions raised by members of the Committee during the discussion. The Committee notes with appreciation that the report follows the recommendations contained in its previous concluding observation,[9] although it regrets that the report fails to provide information on the implementation of the provisions of the Convention in practice, including judicial practice.

B. Factors and difficulties impeding the implementation of the Convention

102. The present situation in the country, with the profound economic and social changes induced by the dissolution of the former Soviet Union and the massive inflow of immigrants and asylum seekers, are not conducive to the full implementation of the Convention.

C. Positive aspects

103. The withdrawal by the State party of its reservation to article 22 of the Convention is welcomed. The notification that the Government is considering making the declaration under article 14 and ratifying the amendments to article 8, paragraph 6, of the Convention is noted with appreciation by the Committee.

104. The establishment of a coordinating council for national minorities within the Council of Ministers, the setting up of a State committee on religious and national questions and the forthcoming establishment of an ombudsman's office are welcomed by the Committee.

105. The signature by the State party of the Commonwealth of Independent States (CIS) Convention concerning the Rights of Persons Belonging to National Minorities in 1994 and of the CIS Convention on Human Rights and Fundamental Freedoms in 1995 is noted with interest. The fact that the later contains provisions prohibiting racial discrimination and incorporates a monitoring procedure which will be competent to receive complaints from individuals is viewed by the Committee as a positive measure, although further examination may be needed as to the relationship of those conventions to the International Convention on the Elimination of All Forms of Racial Discrimination.

106. The detailed information provided in the report on the ethnic composition of the population, involving national, ethnic, cultural, linguistic and religious minorities in Belarus, is welcomed.

107. The adoption of an Act on Refugees in 1995, which takes into account the provisions of the 1951 Convention relating to the Status of Refugees, is welcomed. In this regard, it is noted that bilateral agreements have been concluded between Belarus and neighbouring countries to regulate migratory movements, and that agreements have also been concluded with the Commonwealth of Independent States in the framework of assistance to refugees and displaced persons.

108. It is noted with appreciation that various legislative acts have been adopted to comply with the provisions of article 4 of the Convention, such as the Act on the Press and Other Mass Media, which prohibits the use of mass media to incite national, social, racial or religious intolerance or discord; the Act on Political Parties, which prohibits the establishment and activities of parties whose aim is to carry out propaganda for national, religious or racial enmity; and the Act on Public Associations, which prohibits the establishment of public associations which incite national, religious or racial enmity.

109. With respect to article 7 of the Convention, it is noted with satisfaction that the teaching of the purposes and principles of the Charter of the United Nations, of the Universal Declaration of Human Rights and of the principal international human rights instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination, is part of school curricula in Belarus. Moreover, the development, in cooperation with the United Nations Development Programme, of the "democracy, public administration and participation" project, in the framework of which training in the field of human rights of jurists, law enforcement officials, teachers and educators is envisaged, is welcomed by the Committee.

D. Principal subjects of concern

110. The lack of concrete information concerning the implementation of various laws relating to protection against racial discrimination, in particular the Act on Refugees, the Act on National Minorities, the Act on Public Association, or the Act on the Press and Other Mass Media, is noted with regret, given that it hampers the effective assessment of the implementation of the provisions of the Convention.

111. Concern is expressed at the lack of specific legislative provisions prohibiting racial discrimination by private groups or associations. In this regard, it is stressed that article 2, paragraph 1 (d), of the Convention makes it an obligation for States parties to prohibit, including by means of legislation, racial discrimination "by any persons, group or organization".

112. With respect to article 5 of the Convention, the lack of information on the participation in public life of ethnic minorities and on their economic and social situation, especially with regard to access to employment, health, education and housing, is regretted, especially since this makes it difficult to evaluate the effective enjoyment by all such groups of the rights mentioned in article 5.

113. It is regretted that it has not been make clear whether the Act on the Judicial System and the Status of Judges in the Republic of Belarus (1995), under which the courts are required to protect social, economic and political rights and freedoms of individuals, regardless of their origin, race, nationality or language, provides for the right to seek just and adequate reparation or satisfaction for any damage suffered as a result of racial discrimination, as provided for by article 6 of the Convention.

114. In connection with article 6, it is noted that no cases of criminal proceedings for racial discrimination in general, and for offences under article 71 of the Criminal Code in particular, have been recorded so far.

115. With respect to article 7 of the Convention, the lack of information on programmes for the training of magistrates, law enforcement officials, teachers

and social workers, aimed at raising their awareness of problems related to racial discrimination, is regretted.

E. Suggestions and recommendations

116. The Committee recommends that information on the implementation in practice of the laws relating to the prevention and elimination of racial discrimination be included in the next periodic report. In particular, the mention of any relevant court cases will be appreciated.

117. In connection with the activities of the recently established State Committee on Religious and National Questions, the Committee draws the attention of the State party to its General Recommendation XVII (42) on the establishment of national institutions to facilitate the implementation of the Convention.

118. The Committee recommends that specific legislation be adopted to prohibit racial discrimination by private groups or organizations, in accordance with article 2, paragraph 1 (d), of the Convention.

119. The Committee recommends that comprehensive information be provided by the State party in its next periodic report on the effective enjoyment by all groups of the rights under article 5 of the Convention, in particular concerning participation in public life under article 5 (c) and enjoyment of economic, social and cultural rights under article 5 (e). For this purpose, the Committee recommends that national or ethnic minority associations in the State party be consulted on their experiences regarding these matters.

120. In connection with article 6 of the Convention, the Committee requests that information be provided on the availability of the right to seek from the courts just and adequate reparation or satisfaction for any damage suffered as a result of racial discrimination. The Committee recommends that instances of cases where reparation was sought from the courts, together with the courts' decisions thereon, be provided in the next report.

121. The Committee further recommends that the State party furnish a reply to the question about the reason for the absence of prosecutions relating to racial discrimination offences, so as to assess whether this is due to the actual non-existence of such offences, or to a lack of awareness of the population of their rights or to a lack of effective enforcement of the relevant laws by the competent authorities.

122. The Committee also recommends that due attention be paid to the availability of education in the Belarusian language for all students who desire to study in that language.

123. In the framework of article 7 of the Convention, the Committee recommends that training concerning the principles and rights enshrined in the Convention be provided to law enforcement officials, judicial personnel, teachers and social workers. Similarly, the Committee recommends that the State party continue its efforts to incorporate the principles of the Convention in school curricula at all levels.

124. While it welcomes the publication of the report, the Committee recommends that the fourteenth periodic report of the State party, as well as the present concluding observations be widely disseminated among the public at large.

125. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992, at the Fourteenth Meeting of the States Parties to the Convention.

Luxembourg

126. The Committee considered the ninth periodic report of Luxembourg (CERD/C/277/Add.2), at its 1193rd and 1194th meetings (CERD/C/SR.1193 and 1194), held on 7 March 1997. At its 1210th meeting, held on 19 March 1997, it adopted the following concluding observations.

A. Introduction

127. The Committee welcomes the detailed report submitted by the Government of Luxembourg, which contains relevant information about changes and developments that have occurred since the consideration of the previous periodic report, although the Committee notes that the form of the report does not follow the revised guidelines. The Committee notes with appreciation that the State party, in the preparation of the ninth periodic report, has taken into account the Committee's concluding observations with respect to the previous report.[10] The Committee also expresses its appreciation of the constructive dialogue with the delegation and the comprehensive and thorough answers given to the range of questions asked by its members.

B. Factors and difficulties impeding the implementation of the Convention

128. It is noted that there are no significant factors or difficulties that prevent the effective implementation of the Convention in Luxembourg.

C. Positive aspects

129. The high standards of Luxembourg regarding the promotion and protection of human rights and its commitment to implementing the provisions of the Convention are noted with appreciation, especially taking into account the very high proportion of foreign residents (over 35 per cent) in the country. The fact that Luxembourg has made a declaration under article 14 of the Convention and is the first State party to implement paragraph 2 of article 14 by establishing a standing committee against discrimination in May 1996 is also welcomed.

130. The additional steps recently undertaken by the authorities of Luxembourg to bring its legislation and practice into line with the Convention's requirements are welcomed. In addition to the Aliens Act promulgated on 27 July 1993, the current efforts being undertaken by the Government to amend the Penal Code are welcomed.

131. The Committee noted with satisfaction that the Government collaborates with non-governmental organizations to facilitate the integration of aliens and to prevent and combat all types of racial discrimination. In this regard, note is taken of the 1993 working agreement between the Government and the liaison Committee for Aliens' Associations.

132. Satisfaction is expressed in relation to efforts undertaken by Luxembourg to raise awareness and to promote action against all forms of racial discrimination. Training of the police on human rights issues is also welcomed. School and adult education policies implemented by the State party to reflect a pluri-national and multilingual population are a source of satisfaction. The radio broadcasting of programmes in various foreign languages is also welcomed as a positive trend.

133. The Act of 27 July 1993, which, inter alia, provides special measures to promote and protect the right to housing of foreign workers, is welcomed in the light of article 5 of the Convention.

134. The Committee welcomes the activities undertaken and planned in Luxembourg on the occasion of the European Year against Racism (1997).

D. Principal subjects of concern

135. It is noted with regret that racist and xenophobic acts and incidents occurred in Luxembourg during 1994.

136. Although noteworthy steps have been taken in the period under review towards the elimination of racial discrimination in Luxembourg and to strengthen the implementation of article 4 of the Convention, it is noted that racist organizations are not yet prohibited by law.

137. Although the Committee is aware of the positive efforts undertaken by the State party in the field of education against racial discrimination, concern is expressed about the absence or insufficiency of such educational measures for some professional groups, such as judges, magistrates, lawyers and civil servants.

E. Suggestions and recommendations

138. In the light of article 4, paragraph (b), of the Convention and of the current process of amending the Penal Code of Luxembourg, the Committee recommends that the Government amend article 455 of the Penal Code to bring it fully into line with the requirements of the Convention.

139. With respect to articles 4 and 6 of the Convention, the Committee would appreciate receiving further information on the number of complaints of racial discrimination, the outcome of the prosecution of cases of racial discrimination and the redress, if any, provided to persons suffering from such discrimination.

140. The Committee recommends the amendment of article 444 of the Penal Code with a view to introducing stronger penalties for acts of slander and/or defamation of a racial character.

141. It is further suggested that the State party consider providing education and training on racial tolerance and human rights issues to professional groups such as judges, magistrates, lawyers and civil servants.

142. During the current review by the authorities of Luxembourg of national legislation relating to freedom of the press and information, the Committee recommends that the State party take appropriate measures to ensure that all of

the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination are taken into account.

143. The Committee recommends that the State party give publicity in the country to its ninth periodic report, as well as to the Committee's concluding observations thereon.

144. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

145. The Committee recommends that the State party's next periodic report, due on 1 June 1997, be an updating report and that it address all the points raised during the consideration of the ninth report.

Jordan

146. At its 1196th meeting, held on 10 March 1997 (see CERD/C/SR.1196), the Committee reviewed the implementation of the Convention by Jordan based upon its previous reports (CERD/C/130/Add.3 and CERD/C/183/Add.1) and their consideration by the Committee (see CERD/C/SR.864). The Committee noted with regret that no report had been submitted to the Committee since 1989.

147. The Committee welcomed, however, the presence of a delegation of the State party at its meeting and the oral information provided on legal developments relevant to the implementation of the Convention in the State party. The Committee welcomed, in particular, the information that Jordan will resume its reporting obligations under the Convention shortly.

148. The Committee therefore invites the State party to submit its next report in time for the fifty-first session of the Committee and to include in that report information on the legislative, judicial, administrative or other measures giving effect to the Convention, in accordance with the Committee's general guidelines regarding the form and contents of reports to be submitted by a State party under article 9, paragraph 1, of the Convention.

Nepal

149. At its 1196th meeting, held on 10 March 1997 (see CERD/C/SR.1196), the Committee reviewed the implementation of the Convention by Nepal based upon its previous report (CERD/C/148/Add.1) and its consideration by the Committee (see CERD/C/SR.787). The Committee noted with regret that no report had been submitted to the Committee since 1986.

150. The Committee welcomed, however, the presence of a delegation of the State party at its meeting and the oral information provided on legal developments relevant to the implementation of the Convention in the State party. The Committee welcomed, in particular, the information that Nepal will resume its reporting obligations under the Convention shortly.

151. The Committee therefore invites the State party to submit its next report in time for the fifty-first session of the Committee and to include in that report information on the legislative, judicial, administrative or other measures giving effect to the Convention, in accordance with the Committee's

general guidelines regarding the form and contents of reports to be submitted by a State party under article 9, paragraph 1, of the Convention.

Germany

152. The Committee considered the thirteenth and fourteenth periodic reports of Germany, submitted in a single document (CERD/C/299/Add.5), at its 1196th and 1197th meetings (CERD/C/SR.1196 and 1197), on 10 and 11 March 1997. At its 1211th meeting, held on 20 March 1997, it adopted the following concluding observations.

A. Introduction

153. The Committee commends the State party on the high quality of its report, drawn up in accordance with the Committee's guidelines, although it is noted that the report did not deal systematically with the Committee's concluding observations relating to the previous report of the State party. The comprehensive information provided in the report and its annexes, the frank and constructive approach taken by the high-level delegation in the dialogue with the Committee and the additional information provided in response to questions posed by Committee members manifest the serious commitment of the Government of Germany to the principles and purpose of the Convention.

154. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention, and some of its members requested that the possibility of such declaration be considered.

B. Factors and difficulties impeding the implementation of the Convention

155. The Committee notes that there is no national human rights institution or ombudsman in Germany authorized to monitor and coordinate the Government's efforts to eliminate racial discrimination, and that no comprehensive anti-discrimination law has been adopted, notwithstanding the fact that the German Constitution (Grundgesetz) and many federal and provincial (Länder) laws do prohibit and envisage criminal sanctions for various manifestations of racial discrimination and xenophobia.

C. Positive factors

156. The Committee expresses satisfaction at the significant decrease in criminal offences against foreigners and asylum seekers and of other expressions of racial discrimination and violence in the period since Germany's last report. This decrease appears to be attributable to the manifold legislative, administrative and judicial measures taken by German federal and provincial authorities, including amendments to the criminal law and enactment of additional legislation aimed at rendering the prohibition of racial discrimination and the protection of victims more effective.

157. The prohibition of the production and distribution of neo-Nazi literature and the severe punishment of persons found guilty of incitement to racial hatred have no doubt contributed to the improvement in the situation since Germany's last report. There has also been a noticeable decline in the number of persons

belonging to extremist organizations, several of which have been banned. In this context, the Committee is pleased that Germany has adopted legislative measures to fulfil the requirements of article 4 of the Convention.

158. The Committee is aware that attitudes of xenophobia and racial discrimination are rejected by a broad section of the German public, as shown in many spontaneous anti-discrimination demonstrations in German cities, expressions of compassion for the victims of violence, and frequent condemnation of xenophobia and racial discrimination in the daily press and other media.

159. The Committee reiterates that genocide has rightly been condemned as a crime against humanity, and trusts that all genocidal acts will be condemned without any distinction as to time, place or group of victims; it further hopes that schemes for compensation of the victims of genocide and for prevention of any future discrimination will cover all groups that have been or may become victims.

160. Information provided in the report and orally by the delegation indicates that some victims of discrimination have been successful in vindicating their rights in the German courts, including in the context of employment.

161. The Committee welcomes the information given by the delegation concerning the guidelines on education issued by the Conference of Ministers of Culture, which provide for the systematic teaching of human rights and the principles of tolerance and coexistence in a multicultural society. In particular, the Committee commends the German authorities for the improved curricula at various levels of schooling, encompassing instruction, starting in early years of schooling, about other cultures and religions, aiming to instil in the young a feeling of respect for all human beings regardless of ethnic origin or religious affiliation.

162. The frank acknowledgement by the German delegation that there are still serious problems to solve, and the commitment of the German authorities to take preventive measures and to continue monitoring developments, reflect a realistic approach likely to produce good results.

163. The Committee also welcomes ongoing regional cooperation in the eradication of xenophobia and racial discrimination, particularly in the context of the European Union, such as the activities launched in connection with the European Year against Racism.

D. Principal subjects of concern

164. Concern is expressed over manifestations of xenophobia and racial discrimination, including acts of anti-Semitism and hostility against certain ethnic groups, and racial violence that still occur on a substantial scale in Germany. In spite of the Government's efforts to prevent them and to punish the perpetrators, it appears that such manifestations reflect deep-seated prejudices and latent fears still prevailing in certain sections of the population, particularly among the less educated and the unemployed. This situation calls for continued efforts on the part of the federal and provincial governments to eradicate the causes of discrimination and to intensify information and educational programmes.

165. Concern is expressed at the fact that while the State party has accorded the status of ethnic minority and provided special protection to four small

ethnic groups traditionally resident in Germany, it has left numerically much larger ethnic groups without any specific protection, in particular, members of those ethnic groups who have long-term residence status or who have become German citizens.

166. Concern is expressed at instances of police brutality against foreigners, particularly Africans and Turks, which have been reported in the press. Better training and stricter disciplinary action against the perpetrators appear to be necessary.

167. It is noted with concern that private insurance carriers sometimes discriminate against ethnic groups and that the onus of complaining is placed on the victim. The Committee considers that federal legislation regulating the insurance industry should prohibit such abuses.

168. Concern is also expressed at the absence of comprehensive legislation to prohibit racial discrimination in the private sector in accordance with articles 2 (1) (d) and 5 (e) (i) of the Convention.

169. It is noted with concern in connection with article 6 of the Convention that certain categories of foreigners, including those without legal status and temporary residents, are not entitled to redress for acts of racial discrimination committed against them.

170. It is noted with concern that no information was made available by the State party concerning measures taken to eradicate de facto racial segregation in accordance with article 3 of the Convention and as further elaborated in the Committee's General Recommendation XIX (47).

E. Suggestions and recommendations

171. The Committee again recommends that the German authorities give serious consideration to the enactment of a comprehensive anti-discrimination law and suggests that consideration also be given to the establishment of a national institution to facilitate the implementation of the Convention, bearing in mind the Committee's General Recommendation XVII (42).

172. The Committee encourages the State party to continue exploring ways of providing specific protection to all ethnic groups living in Germany.

173. In its forthcoming report, the State party should address, inter alia, issues of racial discrimination in the private sector, access to employment by foreigners, post-employment contract equality, de facto racial segregation (bearing in mind the Committee's General Recommendation XIX (47) on article 3 of the Convention), prompt investigation and prosecution of xenophobic offences, in particular those committed by members of the police forces, legislation on foreigners and its implementation (in accordance with the Committee's General Recommendation XI), current asylum practices, in particular in relation to the list of so-called 'safe countries', compensation to all victims of acts of racial discrimination in Germany, and the respective competences of the federal and provincial (Länder) authorities.

174. The Committee recommends that the State party's next periodic report be an updating report in accordance with the reporting guidelines, taking account of the Committee's concluding observations.

175. The Committee invites the State party to make its report and the Committee's concluding observations widely available in Germany with a view to generating discussion on the problems still existing.

Pakistan

176. The Committee considered the tenth, eleventh, twelfth, thirteenth and fourteenth periodic reports of Pakistan, submitted in one document (CERD/C/299/Add.6), at its 1198th and 1199th meetings (CERD/C/SR.1198 and 1199), held on 11 and 12 March 1997. At its 1210th meeting, on 19 March 1997, it adopted the following concluding observations.

A. Introduction

177. The Committee welcomes the opportunity to resume the dialogue with Pakistan after a lapse of 10 years. The Committee notes with appreciation that the report submitted by the State party complies with the Committee's general guidelines and that it addresses the recommendations made during the discussion of the previous report. At the same time, the Committee is of the opinion that more specific information is needed on the implementation of the Convention and national laws in practice. The Committee welcomes the answers provided by the delegation in response to comments made by its members.

178. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention; some of its members requested that the possibility of such declaration be considered.

B. Factors and difficulties impeding the implementation of the Convention

179. It is noted that Pakistan has a large multi-ethnic and multicultural society. It is also noted that the extreme poverty of certain groups in the population, the presence of 1.2 million Afghan refugees and the climate of violence in certain parts of the country may affect the full implementation of the Convention by the State party.

C. Positive aspects

180. The completion of the democratic process, with the regular holding of elections, is obviously a positive step towards better protection of human rights in general and full compliance with the Convention.

181. The information provided by the State party on minorities living in Pakistan, in response to questions asked during the consideration of the previous report, is welcomed by the Committee, which notes that the State party's definition of minorities is based on the religious affiliation of the persons concerned and not on ethnic, racial or linguistic grounds. Although the Committee is aware that religious minorities as such do not fall under the scope of the Convention, it notes that religious differences may coincide with ethnic differences, and it therefore welcomes the institutions and measures that have been established to promote and protect minority rights, such as the Minorities Affairs Division, the National Commission for Minorities, the Federal Advisory Council for Minorities Affairs, the District Minority Committees, the National

Committee on the Kalash People and the monthly holding of meetings with minority members of the National Assembly.

182. The establishment of a Ministry of Human Rights is welcomed. The active role played by the Commission on Human Rights in identifying and criticizing human rights violations, including those committed by the police and armed forces, is also welcomed by the Committee.

183. The repeal of the separate electoral system, which allowed members of minorities to vote only for certain reserved seats in elections, is welcomed. The fact that members of minorities are now entitled to participate directly in the general election process, in addition to electing their own representatives, is a positive development.

184. The direct participation in national elections, for the first time since Pakistan's independence, of the inhabitants of the Tribal Areas is also welcomed.

185. The extensive information in the report on the different languages spoken in Pakistan is welcomed by the Committee, all the more so since it may help in the gathering of future information on the ethnic composition of the population during the Fifth Population and Housing Census.

186. The detailed information on various measures taken and campaigns launched by Pakistan with a view to promoting human rights education and to raising people's awareness of their rights and obligations, including those under the Convention, as well as the envisaged incorporation of human rights education in the school curricula, are welcomed.

D. Principal subjects of concern

187. Concern is expressed that the policy of the State party to recognize only religious minorities excludes ethnic, linguistic or racial groups living in the country from any specific protection under the Convention that would derive from their official recognition as minorities.

188. The fact that the fundamental rights of citizens, irrespective of their race, religion, caste, sex, residence or place of birth, are guaranteed by the Constitution is welcomed, although it is stressed that article 1, paragraph 1, of the Convention is broader in that it prohibits discrimination "based on race, colour, descent, or national or ethnic origin".

189. It is noted with regret that the report does not respond to paragraph 8 of the Committee's general guidelines about the supply of information on ethnic or racial origin. The lack of such information makes it difficult to assess the situation of the various ethnic groups in Pakistan and to evaluate the practical impact and the effectiveness of the legislative and other measures adopted by the authorities to implement the provisions of the Convention.

190. It is noted with regret that no specific information is provided on the laws and regulations concerning the Federally Administered Tribal Areas and the North-West Frontier Province, as well as on the economic and social situation prevailing there.

191. The lack of information on the implementation of article 4 of the Convention is regretted. Moreover, it is noted that the State party's

legislation does not fully comply with article 4 (b) of the Convention, which requires that "organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination" be declared illegal and that "the participation in such organizations" be declared an offence punishable by law.

192. There is insufficient information on article 5 (a) and (b) of the Convention, and in particular whether everyone enjoys the right to "equal treatment before the tribunals and all other organs administering justice" and to "security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution".

193. It is regretted that there is not sufficient disaggregated information on participation in public life, as well as economic and social indicators, especially in connection with access to employment, housing, education and health, of the various ethnic, racial or linguistic groups living in the country, including non-citizens; this hampers the assessment of the progress made in the implementation of article 5 of the Convention.

194. It is unclear whether the various languages spoken in the country can be used in the courts.

195. As there is no information on the legislative measures adopted to implement article 6 of the Convention, the absence of instances of judicial cases concerning acts of racial discrimination cannot be accepted as proof of the absence of such discrimination.

E. Suggestions and recommendations

196. The Committee recommends that, in the future, attention be paid to article 9, paragraph 1, of the Convention relating to the undertaking by States parties to submit periodic reports regularly.

197. The Committee recommends that the State party's prohibition of discrimination be brought into line with article 1, paragraph 1, of the Convention.

198. The Committee recommends that more information on the functions and powers of the Ministry of Human Rights and the Commission on Human Rights be provided in the State party's next periodic report.

199. The Committee recommends that specific information be provided on the Federally Administered Tribal Areas and the North-West Frontier Province.

200. The Committee, while appreciating the concern not to promote ethnic or group distinctions, suggests that the State party explore the possibility of granting the same status as that of the religious minorities to other ethnic and linguistic groups, to ensure their full protection under the national laws and institutions relating to minorities as well as relevant international human rights instruments.

201. The Committee recommends that the State party include in its next report information as available on the ethnic and racial origin of the population in conformity with paragraph 8 of the Committee's general guidelines.

202. The Committee recommends that information on the implementation of article 4 of the Convention be provided in the next periodic report. It also recommends that the necessary steps be undertaken to give effect to article 4 (b) of the Convention in national legislation.

203. The Committee further recommends that comprehensive information be provided in the next periodic report on the implementation of article 5 of the Convention, with particular reference to paragraphs (a), (b), (c) and (e).

204. The Committee recommends that the next periodic report contain information on which of the main languages spoken in Pakistan may be used in the courts and in relations with the administration.

205. The Committee recommends that comprehensive information be provided on legislative and other measures adopted by the State party to comply with provisions of article 6 of the Convention and on the availability of the right to seek from the courts just and adequate reparation or satisfaction for any damage suffered as a result of racial discrimination. The Committee also recommends that instances of cases where reparation was sought from the courts, together with the courts' decisions thereon, be provided.

206. The Committee recommends that the State party, in its continuing efforts in the field of human rights education and awareness, continue to pay attention to the establishment of training programmes aimed at familiarizing law enforcement officials, judges, magistrates, teachers and social workers with the standards of the Convention. In this respect, the Committee draws the attention of the State party to its General Recommendations V (15), on reporting obligations in relation to article 7 of the Convention, and XIII (42), on the training of law enforcement officials in the protection of human rights.

207. The Committee further recommends that the tenth to fourteenth periodic reports of the State party, as well as the present concluding observations, be publicized and widely disseminated among the public at large.

208. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

209. The Committee recommends that the State party's next periodic report be an updating report taking into account all requests for specific information listed above and all points raised in consideration of the report.

Belgium

210. The Committee considered the ninth and tenth periodic reports of Belgium, submitted in one document (CERD/C/260/Add.2), and adopted the following concluding observations at its 1211th and 1212th meetings (see CERD/C/SR.1211 and 1212) on 20 March 1997.

A. Introduction

211. The Committee welcomes the ninth and tenth periodic reports submitted by the Government of Belgium in one document and the opportunity thus offered to continue its dialogue with the State party. It expresses to the Belgian Government its satisfaction regarding the quality of the report, although it

regrets that it was not submitted within the time limit. It also thanks the high-level delegation for the additional information submitted orally in reply to the numerous questions asked by members of the Committee and considers its dialogue with the delegation to have been fruitful and constructive. The Committee noted the desire of the State party, as evidenced by the ongoing review of the operation of the police services and judicial institutions, to implement a more active policy for prosecuting racial offences.

B. Positive aspects

212. The Committee noted with interest the statement by the State party to the effect that - with a view to the accession of Belgium to article 14 of the Convention - steps have been taken at the federal level and clarification has been requested from the United Nations High Commissioner for Human Rights/Centre for Human Rights concerning the procedure for implementing article 14, paragraph 2.

213. The Committee took note with satisfaction of the institutional and statutory measures recently adopted by the Belgian authorities to combat racism and xenophobia. It noted the amendments to the Act of 30 July 1981 designed to curb certain acts motivated by racism or xenophobia. Those measures led to the establishment in 1993 of the Centre for Equal Opportunity and Action to Combat Racism, the primary function of which is to receive complaints of racial discrimination and, if necessary, institute court proceedings. In addition, the Act of 12 April 1994 introduced changes to increase penalties and extend the scope of penalties for public expressions of intent to practice racial discrimination, for discrimination in the provision of goods or services and for discrimination in employment, with regard to which the right to institute proceedings was granted to workers' and employers' organizations.

214. The Committee noted with satisfaction the various measures taken regionally to ensure the integration and participation of foreigners, in particular the promulgation of the decree of 4 July 1996, the purpose of which is to approve and subsidize centres in the Walloon Region for the integration of foreigners or persons of foreign origin.

215. The Committee took note of the penalties introduced by the Act of 15 December 1980 as reprisals against the organizers of illegal immigration networks and traffic in persons, particularly foreigners.

216. The Committee also noted with great interest and appreciation the role of the Centre for Equal Opportunity and Action to Combat Racism in preventing discrimination by considering complaints of acts of racial discrimination, by setting up training courses for the police and gendarmerie and the judicial police and by organizing information campaigns for foreigners and campaigns to enhance public awareness of action to combat racism. The Committee is also pleased to welcome the initiatives taken in the spheres of education and information to overcome the prejudices which give rise to racial discrimination.

C. Principal subjects of concern

217. The Committee noted the entry into force of the Act of 23 March 1995 prohibiting the denial, minimization, justification or approval of the genocide committed by the German national socialist regime during the Second World War,

thus filling a gap in the law. Concerns are, however, expressed that the scope of that Act, which does not refer to all types of genocide, is too restricted.

218. The Committee expressed serious concerns about case law in Belgium which interprets as a press offence any written material containing a criminal expression which is printed, reproduced and distributed. It is a matter for concern that the Act of 1981, amended in 1994, and the Act of 1995, both of which tend to apply severer sanctions to acts inspired by racism and xenophobia, are not implemented in this connection.

219. Particular concern is again expressed regarding the Belgian Government's declaration on the provisions of article 4 of the Convention. The Committee also noted with concern that the State party has not taken any legislative measures to declare illegal and prohibit organizations which incite to racial discrimination, as article 4 (b) of the Convention provides. Strong concern was also expressed at the existence in the Flemish Community of a political part with an extremist and xenophobic ideology.

220. Although Belgium's legislative system tends to eliminate most provisions which restrict the rights of foreigners and refugees, the Committee regretted that, with regard to article 5 of the Convention, the report contained no information concerning the economic, social and cultural situation of Belgian citizens of foreign origin - Moroccans, Turks, Italians or others - or that of persons established in Belgium but not Belgian citizens.

221. Concern was expressed at the allegation that the Public Prosecutor's Department and the police are less zealous in the prosecuting of offences in cases where the victim is not of European origin.

222. Concern was also expressed about article 18 bis of the Act of 15 December 1980, permitting the limitation of the temporary or permanent residence of foreigners in certain communes.

223. The Committee expressed regret at the lack of detailed information on complaints of racist and xenophobic acts received by the Centre for Equal Opportunity and Action to Combat Racism. Further information was also requested on the number of complaints of racial discrimination taken to court, the nature of such complaints and how they were handled.

224. The Committee noted with regret that the report submitted by the State party made no explicit reference to the Committee's conclusions and recommendations following its consideration of the previous report and that it had not been widely publicized.

D. Suggestions and recommendations

225. The Committee suggests that all necessary efforts should be made to ensure the full implementation of the Convention in Belgian law and the possibility of invoking it before the courts.

226. The Committee recommends that the Belgian legislative system ensure greater consistency in formulating new laws and, in particular, that adjustments be made to the Constitution and the laws to permit more effective criminal prosecution of racist, negatory or discriminatory writings as such. The Committee suggests that the Act of 23 March 1995, which prohibits the denial, minimization, justification or approval of the genocide committed by the German national

socialist regime during the Second World War, should be broadened to cover the different types of genocide. The Committee recommends that the State party include in its next periodic report information on the results of putting into effect recently adopted legislation, as mentioned above, and the obstacles encountered in so doing. The Committee is not satisfied with the replacement in the Act of 12 April 1994 of the concept of "national or ethnic origin" by the concepts of "origin" or "nationality" and suggests an amendment in keeping with the terms used in article 1, paragraph 1, of the Convention.

227. The Committee recommends that the Belgian Government take the necessary legal steps to implement article 4 (b) of the Convention, according to which States parties shall declare illegal and prohibit organizations "which promote and incite racial discrimination". The Committee also recommends that the State party include in its next report information on complaints of discrimination under article 4 of the Convention and on how the courts handled them.

228. The Committee recommends that the State party include in its next report statistical data on the ethnic composition of the Belgian population, and especially the percentage of Belgian citizens of foreign origin in the country and in the various communities, and the number of persons established in Belgium who are not Belgian citizens. Detailed information on their socio-economic situation, particularly the unemployment rate in the various ethnic communities, would be much appreciated.

229. The Committee recommends that the Belgian Government ensure, by means of appropriate information and training, that the judicial authorities and the police treat persons of European and non-European origin in the same way.

230. The Committee recommends that the State party reconsider article 18 bis of the Act of 15 December 1980, which appears to be in breach of article 5 (d) (i) of the Convention.

231. The Committee recommends that additional information be provided on the activities of the Centre for Equal Opportunity and Action to Combat Racism, along with detailed information on the number of complaints of racial discrimination filed with the courts, the results of proceedings instituted in cases of racial discrimination and the compensation granted, where appropriate, to the victims of that discrimination.

232. The Committee recommends that the Belgian Government take account, in preparing its next report, of these conclusions and recommendations of the Committee. It suggests that the State party ensure that the report and these conclusions are widely distributed to the public in the various languages used in Belgium.

233. The Committee recommends that the State party ratify the amendment to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

234. The Committee recommends that the State party's next periodic report should be an update of the last report and that it should address all the points raised during the consideration of the report.

Cameroon

235. At its 1201st meeting, held on 13 March 1997 (see CERD/C/SR.1201), the Committee reviewed the implementation of the Convention by Cameroon based upon its previous report (CERD/C/171/Add.1) and its consideration by the Committee (see CERD/C/SR.880-881). The Committee noted with regret that no report had been submitted to the Committee since 1989.

236. The Committee welcomed, however, the presence of a delegation of the State party at its meeting and the oral information provided on developments relevant to the implementation of the Convention in the State party. The Committee welcomed, in particular, the information that Cameroon will resume its reporting obligations under the Convention shortly.

237. The Committee therefore invites the State party to submit its next report in time for the fifty-first session of the Committee and to include in that report information on the legislative, judicial, administrative or other measures giving effect to the Convention, in accordance with the Committee's general guidelines regarding the form and contents of reports to be submitted by a State party under article 9, paragraph 1, of the Convention.

238. The Committee suggests that the Government of Cameroon may wish to avail itself of the technical assistance offered under the advisory services of the United Nations High Commissioner for Human Rights/Centre for Human Rights, with the aim of drawing up and submitting as soon as possible an updated report.

Iceland

239. The Committee considered the fourteenth periodic report of Iceland (CERD/C/299/Add.4) at its 1202nd meeting (CERD/C/SR.1202), on 13 March 1997, and at its 1212th meeting, on 20 March 1997, adopted the following concluding observations.

A. Introduction

240. The Committee commends the State party on the quality of its report, submitted in due time and drawn up in accordance with the Committee's guidelines. The Committee is satisfied with the frank and constructive approach taken by the representatives of the reporting State in their dialogue with the Committee and for the additional information they provided with regard to recent developments relating to the implementation of the Convention in Iceland.

B. Factors and difficulties impeding the implementation of the Convention

241. The Committee notes that whereas Iceland has incorporated the European Convention on Human Rights in Icelandic law, by Act No. 62/1994, it has not done so with regard to the International Convention on the Elimination of All Forms of Racial Discrimination. Conferring constitutional status on the Convention would enhance its effectiveness by providing for direct domestic application.

C. Positive factors

242. The Committee expresses satisfaction that in February 1995 the Althing, Iceland's legislature, amended its Constitution to reflect provisions of human rights treaties to which Iceland is a party. The amendment provides for extensive changes and additions to human rights provisions previously in effect. Whereas the principle of equality had been unwritten law and practice in Iceland, the new constitutional provisions now render it written law. Of particular relevance to the Committee is section 65, subsection 1, which stipulates equality without regard to national origin, race or colour. The Committee also welcomes the 1996 amendment to the Personal Names Act, abolishing the requirement that a naturalized foreigner assume an Icelandic-sounding family name. Henceforth, both the naturalized person and his children can retain their family names.

243. The Committee welcomes the fact that the Althing adopted changes to the Penal Code in December 1996 making racial discrimination punishable by law. That goes beyond the previously existing penal provisions of section 233 (a) of the Penal Code, concerning public attacks on a group of persons on the grounds of their nationality, colour, race or religion, and of section 125, concerning ridicule of the religion or worship of a lawful religious community in Iceland.

244. Iceland's information on the implementation of article 7 of the Convention is appreciated. In particular, the Committee is pleased that Iceland has issued and widely distributed a brochure containing the Convention, and that Iceland's Human Rights Office undertakes special lectures on human rights and tolerance for persons working with and teaching immigrants. Human rights education is provided both in the schools and for the adult population. In the Icelandic School for Policemen a general course on human rights is compulsory, and all major international conventions on human rights are introduced to the students.

245. The Committee commends the State party for having distributed the Committee's concluding observations concerning Iceland's previous reports to the media, most of which commented on them, thereby providing an occasion for public debate in Iceland.

246. The Committee welcomes the establishment of a special Information and Cultural Centre for Foreigners in Reykjavik in 1994, which, inter alia, provides practical information concerning residents' permits, health care, social services, insurance and the school system.

247. The Committee notes with satisfaction that Iceland has made the declaration under article 14 of the Convention, thus enabling its residents to avail themselves of the individual communications procedure.

D. Principal subjects of concern

248. The Committee notes that its previous concluding observations, dated 17 August 1994, contained four recommendations concerning the Convention's status in the domestic legal order of Iceland, measures to implement fully the provisions of article 4 of the Convention, measures to combat racial discrimination in the fields of teaching, education, culture or information, and acceptance of the amendment to article 8, paragraph 6, of the Convention. Iceland has partially implemented only one of those recommendations, concerning article 4 of the Convention, and has not provided the Committee with any explanation of why it has not been able to implement the other three.

E. Suggestions and recommendations

249. The Committee suggests that further publicity be given to the State party's declaration under article 14, so as to make that recourse more widely available to the residents of Iceland.

250. The Committee reiterates its previous recommendations to fully implement article 4 of the Convention and to adopt measures according to article 7 in the fields of teaching, education, culture and information.

251. In the State party's next report, the Committee would welcome further information on the naturalization law and its mechanisms.

252. The Committee invites the State party to make its report and the Committee's concluding observations widely available in Iceland with a view to enhancing public awareness of the problems and dangers of racial discrimination. The Committee would welcome, in the next report, information on relevant public debate.

253. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

254. The Committee recommends that the State party's next periodic report be an updating report and that it address all the points raised during the consideration of the report.

Iraq

255. At its 1203rd and 1204th meetings, held on 14 March 1997, the Committee considered the eleventh, twelfth and thirteenth periodic reports of Iraq (CERD/C/240/Add.3) and at its 1230th and 1231st meetings, held on 13 and 14 August 1997, adopted the following concluding observations.

A. Introduction

256. The Committee welcomes the presentation of the State party's eleventh, twelfth and thirteenth periodic reports, which had been overdue because of the difficult situation in the country since 1991, and appreciates the opportunity to continue the dialogue with the State party. The report did not fully follow the guidelines for the presentation of reports and lacked concrete information on the practical implementation of the Convention and laws bearing on issues concerning the Convention.

257. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention, and some of its members requested that the possibility of making the declaration be considered.

B. Factors and difficulties impeding the implementation of the Convention

258. It is recognized that the economic and social hardships in Iraq following the international embargo since the Gulf war and the continuing situation in the Northern Governorates, which precludes Iraq from exercising its jurisdiction,

makes the full implementation of the Convention more difficult. In particular, it is noted that, according to reports of the World Health Organization in March 1996 and the Food and Agriculture Organization of the United Nations in 1995, the economic sanctions applied against Iraq have resulted in a significant lack of basic foods and medicine, and the population, especially children and elderly people, have suffered gravely from malnutrition and lack of medical care, with fatal consequences. In this context, it is noted with grave concern that, according to the report of the Secretary-General of 10 March 1997 (S/1997/206), Security Council resolution 986 (1995) and the memorandum of understanding, which are meant to provide for the delivery of humanitarian goods in exchange for oil, have still not been fully implemented. The Committee is of the opinion that the withholding of basic supplies of food and medicine in itself constitutes a grave violation of human rights. This, however, does not absolve the Government of Iraq from its responsibility to implement the Convention.

C. Positive aspects

259. It is noted with appreciation that, according to the legal system of Iraq, the Convention forms an integral part of the national legislation and may be directly invoked before the courts.

260. The laws and regulations providing for the autonomy of the Kurdish minority in the northern parts of Iraq and the regulations concerning the protection of the cultural identity of several minority groups in Iraq, including the protection of languages spoken by them, are noted with appreciation.

D. Principal subjects of concern

261. The human rights situation in Iraq with respect to the implementation of the Convention, according to certain reports, in particular the report of the Special Rapporteur of the Commission on Human Rights (E/CN.4/1997/57), is a matter of grave concern, as are the assessments made by the Commission of Human Rights in its resolution 1997/60. Iraq is a party to most of the major human rights agreements; however, the implementation of the obligations Iraq has accepted under those instruments, including the Convention, is open to improvement.

262. The Committee is concerned that Security Council resolutions dealing with matters relating to the elimination of all forms of racial discrimination have not been fully implemented.

263. It is noted with regret that because of the prevailing situation and restraints imposed on the exercise of the jurisdiction of Iraq, the Kurdish population living in the Northern Governorates was unable to participate in the popular referendum in accordance with Revolution Command Council Decree No. 85 of 1995.

264. Concern is expressed about the situation of the inhabitants of the southern marshes, and further information is requested about the status of the inhabitants of that area and their way of living.

265. It is noted with concern that the provisions of articles 200, 203, 204 and 208 of the Penal Code do not reflect the requirements of article 4 of the Convention.

E. Suggestions and recommendations

266. The Committee requests the State party to provide in its next report detailed information addressing the concerns expressed by the Committee.

267. The Committee recommends that Iraq review its policy concerning respect for and implementation of international human rights instruments, in particular the International Convention on the Elimination of All Forms of Racial Discrimination.

268. The Committee recommends that Iraq comply with the relevant Security Council resolutions calling for the release of all Kuwaiti nationals and nationals of other States who might still be held in detention, and to provide all available information on missing individuals of such States.

269. The Committee recommends that the State party review its legislation in order to make it comply with the requirements of article 4 of the Convention.

270. The Committee requests the State party to provide economic and social data on the situation of ethnic minorities.

271. The Committee requests the State party to substantiate its statement that the provisions of the Convention may be directly invoked in the courts.

272. The Committee recommends that the State party provide information about the political, economic and geographical structure of the country in a separate core document and that the next report of Iraq follow more closely the guidelines for reporting.

273. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

274. The Convention recommends that the State party's next periodic report be a comprehensive report, submitted so as to be dealt with by the Committee at its summer session of 1998, and that it address all the points raised in the present concluding observations as well as in Commission on Human Rights resolution 1997/60.

Bulgaria

275. The Committee considered the twelfth, thirteenth and fourteenth periodic reports of Bulgaria, which were submitted in a single document (CERD/C/299/Add.7), at its 1205th and 1207th meetings (CERD/C/SR.1205 and 1207), held on 17 and 18 March 1997, and at its 1210th meeting, on 19 March 1997, adopted the following concluding observations.

A. Introduction

276. The Committee notes with appreciation the State party's readiness to continue the dialogue with the Committee by sending a high-level delegation to present the twelfth, thirteenth and fourteenth consolidated periodic reports, which serves as an indication of the importance attached by the Government of Bulgaria to its obligations under the Convention. The Committee appreciates the frankness and comprehensiveness of the report, which fully complies with the

reporting guidelines and which contains detailed supplementary information in response to some of the suggestions and recommendations adopted by the Committee during its consideration of the previous periodic report. The Committee welcomes the additional information provided by the State party in the course of the dialogue with the Committee, during which the representatives of Bulgaria indicated in a very frank and self-critical manner the difficulties encountered in implementing the Convention.

B. Factors and difficulties impeding the implementation of the Convention

277. It is recognized that Bulgaria has had to face economic, social and political challenges during the past years, as a result, inter alia, of the transition to democracy and to a market-oriented economy. In this connection, it is noted that the State party is undergoing severe economic and social problems, including a high level of external debt, which has had a negative impact on the situation of the population, especially minorities such as Roma, and which impede the full enjoyment of economic and social rights. The high rate of unemployment and poverty contributes to the marginalization of a broad strata of the population and is not conducive to the full implementation of the Convention.

C. Positive aspects

278. It is noted with great appreciation that the State party has made the Declaration under article 14 of the Convention, recognizing the competence of the Committee to receive communications, and the withdrawal of its reservation in relation to article 22 of the Convention is welcomed.

279. The fact that, according to article 5 (4) of the Constitution, international instruments such as the Convention that are ratified, promulgated and made effective by Bulgaria are part of the State party's domestic law and enjoy superiority over norms of domestic law that contradict them, is welcomed.

280. It is noted that the Government of Bulgaria has taken several positive measures in the field of law reform, especially since the adoption of the new Constitution of 12 July 1991, to combat various forms of racial discrimination and which fall within the scope of the Convention, including the Law on Names of Bulgarian Citizens, which ensures the possibility of the use of non-Slavic names; the Law on Amnesty and Restitution of Sequestered Properties; and the Law on Restoration of Property Rights and Real Estate to Bulgarian Citizens of Turkish Origin.

D. Principal subjects of concern

281. Although the periodic report contains comprehensive information on the legal framework, the absence of information on the effective implementation of new laws is regretted.

282. Concern is expressed that the economic crisis has affected people from ethnic minorities disproportionately. In this respect, the persistent marginalization of the large Roma population, in spite of continuing efforts by the Government, is a matter of concern. It is noted that the Roma face de facto discrimination in the enjoyment of their economic, social and cultural rights,

which increases their vulnerability in a context of economic crisis. Concern is expressed about discrimination against minorities in the workplace, especially for Roma, most of whom have relatively little training and education. Concern is also expressed that Roma encounter difficulties in applying for social benefits and that rural Roma are discouraged from claiming land to which they are entitled under the law disbanding agricultural collectives.

283. Concern is expressed at the insufficiency of the measures taken to guarantee the rights and freedoms of Bulgarian citizens and their integration into society regardless of race, nationality or ethnic origin. In this connection, concern is expressed at the persistence of expressions of racial hatred and acts of violence, particularly by neo-Nazi skinheads and others, towards persons belonging to minorities, especially Bulgarian citizens of Roma origin. Alarm is expressed that the State party has not been sufficiently active in effectively countering incidents of racial violence against members of minority groups and that Bulgarian police and prosecutors seem to have failed to investigate acts of violence promptly and effectively, In addition, concern is expressed at information from various sources indicating that the number of charges and convictions is low relative to the number of abuses reported. Concern is also expressed that acts of propagating and instigating racial and nationalistic hatred, and the perpetrators of such crimes against ethnic minorities, are not considered to pose a significant danger to the public order.

284. Taking into account reports of cases of harassment and use of excessive force by members of security forces against minorities, especially against members of the Roma community, the Committee is concerned that there may be insufficient training provided to law enforcement officials on the Convention.

285. Although the right to associate and to found political parties is stated as a general principle in the Constitution, it is noted with concern that the State party prohibits the foundation and registration of political parties formed on ethnic, racial or religious bases according to the provision of article 11, paragraph 4, of the Constitution of Bulgaria.

E. Suggestions and recommendations

286. The Committee recommends that the State party provide detailed information on the effective implementation of the new legislation, including on the law on restitution of confiscated immovable property or compensating affected persons.

287. Although a number of institutions have been established to promote and protect human rights, the Committee recommends that the State party strengthen coordination between the various governmental mechanisms at both the national and local levels, with a view to developing a comprehensive policy on the elimination of racial discrimination and ensuring effective evaluation of the implementation of the Convention. In addition, the Committee suggests that the State party pursue its efforts to establish an independent mechanism such as an ombudsman or a national commission for human rights to monitor observance of human rights.

288. The Committee recommends increased attention to the protection of the Roma's civil, political, economic, social and cultural rights. The effort to implement measures of affirmative action in that respect should be strengthened. Adequate indicators and other means of monitoring the economic and social living conditions of that group should be developed. The Committee requests the State

party to provide detailed information on such measures in its next report. The Committee also recommends that the State party provide, in the next report, such statistical data and information as are available on the situation of all minorities on the matters covered under article 5 of the Convention.

289. The Committee recommends that the State party take more active steps to prevent and counter attitudes and acts of racial violence against individuals and to investigate such acts promptly. The Committee recommends that the next report contain detailed information on the effective implementation of the provisions of the Penal Code, allegations and prosecutions of cases of acts of racial discrimination, and complaints and penalties relating to acts of racial and ethnic discrimination.

290. The Committee recommends that the State party take immediate steps to prevent and combat cases of excessive use of force by members of the security forces. Those steps should include the education and sensitization of law enforcement officials about the provisions of the Convention. Due account should be taken of the Committee's General Recommendation XIII, according to which law enforcement officials should receive training to ensure that in the performance of their duties they respect as well as protect human rights and uphold the human rights of all persons without distinction as to race, colour or national or ethnic origin.

291. The Committee recommends that the State party prevent any de facto segregation of minorities; in this context, the Committee draws the attention of the State party to General Recommendation XIX, on article 3 of the Convention.

292. The Committee recommends that the State party clarify its practice concerning the implementation of article 11, paragraph 4, of the Constitution and the enjoyment of the right of all Bulgarian citizens to participate in political life.

293. The Committee recommends that the State party launch a systematic information campaign to inform and educate all parts of society on the provisions of the Convention. Additionally, the Committee recommends that human rights education be provided at all levels in educational establishments and that comprehensive human rights training be provided to all segments of the population with a view to combating negative attitudes and prejudices towards minorities and to promoting understanding, tolerance and friendship.

294. The Committee is of the view that the public should be better informed of the procedure available under article 14 of the Convention. It suggests to the State party that the declaration concerning article 14 be made more widely available to the public in the various languages spoken in the country. Additionally, it is recommended that the State party ensure wide dissemination of its report and of the concluding observations of the Committee.

295. The Committee recommends that the State party's next periodic report be an updating report and address all the concerns expressed by the Committee.

Mexico

296. The Committee considered the eleventh periodic report of Mexico (CERD/C/263/Add.10) at its 1206th and 1207th meetings (CERD/C/SR.1206 and 1207) on 17 and 18 March 1997. At its 1231st, 1234th and 1235th meetings on 14, 15

and 18 August 1997, respectively, it adopted the following concluding observations:

A. Introduction

297. The Committee welcomes the continuation of the dialogue with the Government of Mexico. It expresses its satisfaction to the State party for the diligence with which the Government submitted its report, which follows the new guidelines established by the Committee. The Committee also expresses its satisfaction for the oral replies provided by the delegation during the consideration of its report.

298. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention; some members of the Committee requested the Mexican Government to consider the possibility of doing so.

B. Factors and difficulties impeding the implementation of the Convention

299. The Committee recognizes that Mexico is a country in which a large number (56) of ethnic and indigenous groups with extremely varied cultural and linguistic traditions live side by side. Mexico is also characterized by extreme poverty that affects large and mainly indigenous segments of the population, particularly in the province of Chiapas, where a conflict between a national liberation movement and the local and federal authorities has been continuing since 1994. Despite numerous institutional, political, economic and social initiatives, the Mexican authorities have not fully succeeded in eliminating endemic poverty, which has aggravated the social inequalities that affect indigenous populations in particular, nor in restoring social peace in the State of Chiapas.

C. Positive aspects

300. The Committee notes with satisfaction the numerous initiatives taken by the National Human Rights Commission during the period under consideration, and in particular the work done on behalf of imprisoned indigenous inhabitants, as well as the radio and television programmes intended to increase awareness of, disseminate information about and provide education in human rights.

301. The efforts made by the State party since 1994 to restore peace in the state of Chiapas are noteworthy. The establishment, in 1995, of the Concord and Peace Commission and the creation in December 1996 of the Commission for Monitoring and Verification of the Peace Agreements were particularly welcome. The investigation by the National Human Rights Commission of complaints submitted by the civilian population concerning human rights violations and the conclusion of the agreement of 16 February 1996 on indigenous rights and culture constitute significant progress in the pacification process.

302. The Committee also takes note of the many programmes and measures recently introduced by the Mexican authorities to combat extreme poverty and to promote the economic, social and cultural development of the indigenous populations.

D. Principal subjects of concern

303. The Committee regrets the existence of differences with the State party over the interpretations of the Convention. These differences were already noted during the consideration of previous reports, particularly with regard to the persistence of racial or ethnic discrimination against certain social groups and the failure fully to implement the provisions of article 4 of the Convention. The Committee also regrets the inaccuracy of the data on the composition of the population of the State party.

304. Concern was expressed over the persistence of discriminatory practices - some involving the authorities - directed against members of indigenous groups.

305. At the present time, national legislation is not in conformity with the provisions of article 4 of the Convention; this is a source of serious concern, since the State party has not yet taken all the necessary steps to effectively prevent and combat the different forms of racial and ethnic discrimination.

306. With regard to article 5 of the Convention, in certain situations, an individual's right to enjoy equal treatment in the courts is not effectively guaranteed for members of indigenous groups. Specifically, they are not guaranteed the right to express themselves in their own languages during legal proceedings.

307. Concern was expressed over the right to security of person, particularly for indigenous inhabitants and illegal immigrants. This right to security of person has in certain cases been violated by representatives of the forces of law and order, paramilitary groups and landowners. All too often, those responsible for these crimes have gone unpunished.

308. The Committee is concerned about the protection of the political rights of members of indigenous groups and would appreciate additional information concerning their participation in the national parliament and in political organs.

309. With respect to the enjoyment of economic, social and cultural rights, the Committee notes with concern that the members of indigenous groups live in extreme poverty. The fact that the report of the State party contains no social and economic indicators of the marginalization and non-integration of certain population groups is regrettable in this connection. Lastly, another source of concern is the land delimitation and distribution process, which does not seem to have fully respected the land rights of the indigenous populations.

310. As for the implementation of article 6 of the Convention, the Committee notes with concern that the report of the State party contains no information on the number of complaints, judgments and compensation awards arising from all kinds of racist acts.

311. With regard to article 7, and despite the obvious efforts made recently by the Government of Mexico, the Committee notes with concern the continuing inadequacy of the measures adopted to provide appropriate human rights training for State law enforcement officials who are in regular contact with 'vulnerable' populations, and particularly members of the forces of law and order and prison personnel.

312. The absence of local and federal legislation guaranteeing indigenous populations the possibility of a bilingual and bicultural education remains a source of concern.

313. The fact that the report of the State party contains no accurate statistics on the indigenous population makes it difficult to analyse the extent to which this large segment of the population enjoys the rights recognized by the Convention.

314. Lastly, the situation in the State of Chiapas remains unstable and of considerable concern, since political negotiations have been suspended, despite the efforts announced by the Government authorities as well as by the Zapatist National Liberation Army. This tense situation is aggravating the precariousness of the indigenous populations living in that region.

E. Suggestions and recommendations

315. The State party is requested to furnish, in its next report, detailed statistics on the various indigenous groups living in Mexico.

316. The Committee hopes that the State party will continue its efforts to improve the effectiveness of measures and programmes designed to ensure that members of all population groups, especially the 56 indigenous groups, fully enjoy their political, economic, social and cultural rights. The Committee also recommends that the State party should devote due attention to the legislative changes required as well as to the development of programmes to foster awareness of human rights, particularly among representatives of the State.

317. The Committee requests the Government to Mexico to provide, in its next periodic report, precise information and 'indicators' on the social and economic difficulties encountered by indigenous populations. The Committee also draws the State party's attention to the need to devise 'indicators' to evaluate policies and programmes for protecting and promoting the rights of vulnerable populations.

318. The Committee recommends that the State party should do everything possible to speed up current legislative reforms and, more specifically, to bring national legislation fully into line with the provisions of article 4 of the Convention.

319. The State party should also take the necessary steps to allow citizens from indigenous populations to be elected in political elections and to have access to the civil service.

320. The Committee recommends that the State party should take all appropriate measures to ensure equal and impartial treatment before the law for all persons, and particularly those from indigenous groups. In particular, it invites the Mexican authorities to offer indigenous inhabitants the possibility of expressing themselves in their mother tongue in all judicial proceedings.

321. The Committee recommends that the Government of Mexico should exercise greater vigilance in the protection of the fundamental rights of indigenous inhabitants and other vulnerable groups of society, who are regularly the victims of intimidation, violence and serious human rights violations. It hopes that the competent authorities will systematically prosecute those responsible for such crimes, regardless of whether they are members of private militias or

State officials, and that effective preventive measures will be taken, including the training of members of the police force and the army. The State party should also ensure that the victims of such acts are compensated.

322. The Committee recommends that the State party should find just and equitable solutions to land delimitation, distribution and restitution problems. Everything possible should be done to protect indigenous inhabitants from all forms of discrimination in such matters.

323. In order to be able to evaluate the implementation of article 6 of the Convention, the Committee recommends that the State party should present, in its next report, information on the number of complaints, judgments and compensation awards arising from racist acts, regardless of their nature.

324. The Committee recommends that the State party should make every effort to provide multicultural education for everyone.

325. The Committee recommends that the State party should give nationwide publicity to its eleventh periodic report and to the Committee's concluding observations thereon.

326. The Committee recommends that the State party should ratify as soon as possible the amendments to article 8, paragraph 6, of the Convention, which were adopted at the Fourteenth Meeting of States Parties.

327. The Committee recommends that the State party's next periodic report should be a more detailed one and should address all the questions raised in these concluding observations.

Panama

328. The Committee considered the tenth, twelfth, thirteenth and fourteenth periodic reports of Panama, submitted in a single document (CERD/C/299/Add.1), at its 1208th meeting (CERD/C/SR.1208), held on 18 March 1997, and at its 1213th meeting, on 21 March 1997, adopted the following concluding observations.

A. Introduction

329. The Committee notes with appreciation the State party's willingness to re-establish a dialogue with the Committee by sending a high-level delegation to present the report, which indicates the importance attached by the Government of Panama to its obligations under the Convention. The Committee regrets, however, that no report was submitted between 1986 and 1996 and that the report submitted does not cover adequately all the rights recognized under articles 2 to 7 of the Convention. The Committee nevertheless expresses its appreciation for the frank dialogue with a competent delegation and for the answers given orally to the wide range of questions asked by Committee members.

B. Factors and difficulties impeding the implementation of the Convention

330. The Committee is aware that Panama is emerging from a period of serious political, social and economic difficulties. The Committee notes that substantial disparities in wealth between different ethnic groups of the

population tend to affect the implementation of the Convention in the State party.

C. Positive aspects

331. The recent initiatives taken by the State party to promote and protect human rights, including those enumerated by the Convention, are welcomed. The work undertaken by the National Commission on Administrative Boundaries, which resulted in important negotiations and law reforms, such as the enactment of the laws establishing the indigenous comarcas (territorial districts of the indigenous peoples) of Madugandi and Ngobe Bugle, is encouraging. The programmes and initiatives undertaken to protect immigrants and refugees during the period under review are also noted with interest.

332. The adoption in December 1996 of a law establishing an ombudsman for human rights (Defensor del Pueblo) is welcomed.

333. The recent adoption and implementation of two training programmes on human rights for law enforcement personnel are welcomed. It is also noted that the Police Academy has for several years included human rights in its curricula.

334. It is further noted that in 1995 the State party reformed its employment legislation to, inter alia, combat different forms of racial discrimination.

D. Principal subjects of concern

335. It is noted with concern that no complaints have been filed with the appropriate governmental bodies by individuals or groups during the last 10 years, despite reports that rights covered by the Convention were not fully respected.

336. Concern is expressed that some groups living in Panama, such as indigenous people and members of the black and Asian minorities, do not fully benefit from the rights recognized under the Convention.

337. Concern is also expressed that Panama has not fully complied with the obligations derived from article 4 of the Convention.

338. In the light of article 5 of the Convention, it is noted with concern that the issue of land rights of indigenous people has remained unsolved in a great majority of cases. Those land rights seem also to be threatened by the mining activities that have been undertaken, with the approval of the central authorities, by foreign companies, and also by the development of tourism in those regions.

339. It is noted with concern that the legal status of the comarcas in relation to the provinces remains unclear.

340. It is also noted with concern that the State party has presented information, under article 5 of the Convention, only on the right to work. It is reminded that article 5 also covers several other rights. Furthermore, no information on the implementation of article 6 of the Convention has been provided by the State party in its report.

341. While it is noted that the Canal Zone has a special legal status, it is viewed with concern that workers from Panama are not accorded the same rights as foreign workers employed in that special zone.

342. It is noted with regret that indigenous people have a low rate of participation in elections and are underrepresented in the public service.

343. The lack of detailed and disaggregated statistical information on indigenous groups remains a concern, especially as it hampers the Committee's ability to monitor the implementation of the rights enumerated in the Convention.

E. Suggestions and recommendations

344. The Committee recommends that the State party designate an appropriate body to coordinate and monitor programmes and policies designed to implement the Convention, as envisaged in its General Recommendation XVII.

345. The Committee recommends that the State party take the necessary measures to comply fully with the obligations of article 4 of the Convention.

346. The Committee suggests that the State party include in its next report information on complaints received and judgments issued in cases of racial discrimination.

347. The Committee suggests that the State party take all appropriate measures to disseminate the Convention widely and to translate it into appropriate languages for indigenous groups.

348. The Committee recommends that the State party continue the improvement of training of law enforcement officials in light of the Committee's General Recommendation XIII.

349. The Committee recommends that the State party take appropriate measures to allow full enjoyment by different groups of society, such as indigenous people or members of the black and Asian minorities, of the rights enumerated in the Convention. Special attention is drawn to the implementation of the rights enumerated in article 5 (e) (iii), (iv) and (v) for those specific groups.

350. The Committee strongly recommends that the State party actively pursue its current efforts to implement fully the right of indigenous people to own property and land. It especially recommends that the State party investigate and monitor the impact of the work of mining companies, including foreign companies, as well as the impact of the current development of tourism, on the enjoyment of basic rights by indigenous peoples.

351. In relation to the legal status of the comarcas, the Committee suggests that the State party explain more precisely in its next report the status of the comarcas in comparison to the status of the provinces.

352. The Committee suggests that the State party take appropriate measures to enable indigenous persons to participate in elections and to provide them with equal access to employment in the public service.

353. The Committee also recommends that the State party include in its next report disaggregated data, including information and socio-economic indicators, on the demographic composition of its population.

354. With regard to the special status of the Canal Zone, the Committee recommends that the Government of Panama take appropriate measures to ensure that the rights enumerated in the Convention, especially article 5, are enjoyed equally by all residents and workers in that specific area.

355. Furthermore, the Committee encourages the State party to consider ratifying ILO Convention No. 169.

356. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention adopted at the Fourteenth Meeting of States Parties to the Convention in January 1992.

357. The Committee recommends that the State party's next periodic report be a comprehensive report and that it address all the points raised in the consideration of the present report.

Swaziland

358. The Committee considered the fourth to fourteenth periodic reports of Swaziland, submitted in one document (CERD/C/299/Add.2), at its 1209th meeting, held on 19 March 1997 (see CERD/C/SR.1209), and at its 1213rd meeting, on 21 March 1997, adopted the following concluding observations.

A. Introduction

359. The Committee notes with satisfaction the submission of the report by the State party and the readiness of the Government of Swaziland to resume a dialogue with the Committee after a break of 20 years. It regrets that the report has not been prepared in accordance with the Committee's general guidelines and contains insufficient information on the actual implementation of the Convention by the State party. However, the information provided by the delegation of the State party in the course of the oral presentation of the report allowed the Committee to obtain a more comprehensive view of the overall situation in the country and of the implementation of the Convention. The Committee, having noted that a core document has not been submitted by the Government of Swaziland, draws the attention of the State party to the guidelines for the preparation of that document (HRI/CORE/1).

360. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention; some of its members requested that the possibility of such declaration be considered.

B. Positive aspects

361. Appreciation is expressed with regard to the commitment of the Government of Swaziland to combat racial discrimination and hatred and the efforts made by the State party to comply with the provisions of the Convention, particularly through the adoption of appropriate legislation, such as the Race Relations Act 6/1962, the Employment Act of 1980 (sect. 29) and the Citizenship Act of 1992 amending the 1982 Citizenship Act which, as had been alleged, had discriminatory

aspects. It is also noted with interest that the State party is considering the modification of the Race Relations Act 6/1962 in order to address relevant issues raised by the Convention.

C. Principal subjects of concern

362. The report of the State party does not provide sufficient information on the practical implementation of articles 2, 3 and 6 of the Convention.

363. Concern is expressed at the failure to adopt legislative, administrative and other measures implementing fully the provisions of the Convention contained in article 4, article 5, in particular paragraphs (d) (i) and (e), and article 7. In that connection, it is noted that the Race Relations Act adopted in 1962, prior to the Convention's coming into force, adopted a narrower approach to the definition of the term 'racial discrimination', as it speaks only of discrimination based on race and colour.

D. Suggestions and recommendations

364. The Committee, having recalled that the report under consideration did not follow the Committee's guidelines for the preparation of reports and was submitted after a delay of 20 years, requests the State party to comply fully with the reporting obligations under article 9 of the Convention and to ensure that the next report is prepared in accordance with the general guidelines and submitted in time. It also recommends that the core document be submitted without further delay.

365. The Committee recommends that the report to be submitted contain detailed information on such specific issues identified by the Committee as measures taken to implement article 4, measures which have been taken under articles 5 and 7 and the difficulties encountered in implementing the provisions contained in the Convention.

366. The Committee suggests that the Government of Swaziland may wish to avail itself of technical assistance provided under the advisory services and technical assistance programme of the United Nations High Commissioner for Human Rights/Centre for Human Rights.

367. The Committee suggests that account be taken of the Convention's provisions in the envisaged elaboration of a draft new Constitution of Swaziland.

368. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

369. The Committee recommends that the State party's next periodic report be a comprehensive report and that it address all the points raised during the consideration of the present report.

Rwanda

370. At its 1212th meeting, held on 20 March 1997 (see CERD/C/SR.1212), the Committee reviewed the implementation of the Convention by Rwanda based upon its previous report (CERD/C/169/Add.1) and its consideration by the Committee (see

CERD/C/SR.839). The Committee noted with regret that no report had been submitted to the Committee since 1988.

371. The Committee welcomed the presence of a delegation of the State party at its meeting and the oral information provided on developments relevant to the implementation of the Convention in the State party. The Committee welcomed, in particular, the assurance that Rwanda will resume its reporting obligations under the Convention shortly.

372. The Committee therefore invites the State party to present its next report in time for the fifty-first session of the Committee and to include in it information on the legislative, judicial, administrative or other measures giving effect to the Convention, in accordance with the Committee's general guidelines regarding the form and contents of reports to be submitted by a State party under article 9, paragraph 1, of the Convention.

373. The Committee suggests that the Government of Rwanda may wish to avail itself of the technical assistance offered under the advisory services of the United Nations High Commissioner for Human Rights/Centre for Human Rights, with the aim of drawing up and submitting as soon as possible an updated report.

Seychelles

374. At its 1213th meeting, held on 21 March 1997 (see CERD/C/SR.1213), the Committee reviewed the implementation of the Convention by Seychelles based upon its previous reports (CERD/C/128/Add.3) and their consideration by the Committee (see CERD/C/SR.816). The Committee noted with regret that no report had been submitted to the Committee since 1986.

375. The Committee regretted that Seychelles had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of Seychelles setting out its reporting obligations under the Convention and urging that the dialogue with the Committee be resumed as soon as possible.

376. The Committee suggests that the Government of Seychelles may wish to avail itself of the technical assistance offered under the advisory services and technical assistance programme of the United Nations High Commissioner for Human Rights/Centre for Human Rights, with the aim of drawing up and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

Mongolia

377. At its 1213th meeting, held on 21 March 1997 (see CERD/C/SR.1213), the Committee reviewed the implementation of the Convention by Mongolia based upon its previous reports (CERD/C/149/Add.23 and CERD/C/172/Add.10) and its consideration by the Committee (see CERD/C/SR.383-340). The Committee noted with regret that no report had been submitted to the Committee since 1988.

378. The Committee regretted that Mongolia had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of Mongolia setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.

379. The Committee suggests that the Government of Mongolia may wish to avail itself of the technical assistance offered under the advisory services and technical assistance programme of the United Nations High Commissioner for Human Rights/Centre for Human Rights, with the aim of drawing up and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

Algeria

380. At its 1216th and 1217th meetings, held on 4 and 5 August 1997, the Committee considered the eleventh and twelfth (consolidated) periodic reports of Algeria (CERD/C/280/Add.3) and at its 1235th meeting, held on 18 August 1997, adopted the following concluding observations.

A. Introduction

381. The Committee expresses its appreciation for the opportunity to resume its dialogue with the State party and for the additional information that the State party's delegation provided during its oral presentation. However, the Committee regrets that the report does not fully comply with the reporting guidelines and that it fails to provide concrete information on the implementation of the Convention in Algeria and on the actual enjoyment by the population of its rights.

B. Factors and difficulties impeding the implementation of the Convention

382. It is recognized that Algeria has to face economic, social and political challenges and is experiencing economic and social problems that might have a negative impact on the situation of the population and impede the full enjoyment of economic and social rights.

383. The Committee also notes that the climate of violence which has been in existence in Algeria since 1989, and severely affects the civilian population, is an additional and serious obstacle to the full implementation of the Convention.

C. Positive aspects

384. The Committee warmly appreciates the efforts of the State party to implement the Convention under adverse circumstances.

385. It is noted with great appreciation that the State party has made a declaration under article 14 of the Convention, recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals.

386. The Committee welcomes the fact that, in accordance with article 123 of the Constitution, international instruments, such as the Convention, that have been ratified, promulgated and implemented by Algeria are part of the State party's domestic law and take priority over norms of domestic law that contradict them.

387. The setting up of the National Cultural Council in 1990, the establishment of the National Human Rights Observatory in 1992 and the establishment of the Office of the High Commissioner on Amazighe Status in 1995, as well as the restructuring of the Amazighe language to make instruction in that language in schools and universities possible, are noted with appreciation.

388. The Committee notes with appreciation that education at all levels is free, as is public health care.

D. Principal subjects of concern

389. Concern is expressed over the insufficiency of information on the ethnic composition of the population of Algeria, which makes it difficult to identify vulnerable groups and to evaluate activities intended for their benefit.

390. Although the report contains information on legislative measures, the Committee regrets the lack of information on judicial, administrative or other measures adopted by the State party to give effect to the provisions of the Convention.

391. Although article 28 of the Algerian Constitution provides for non-discrimination, together with equality before the law and equal protection of the law without discrimination, the Committee is concerned about the failure of the Government to incorporate the prohibition of racial discrimination in its domestic law, in accordance with the Convention.

392. Concern is expressed that the State party has not fulfilled all the requirements of article 4 (a) and (b) of the Convention.

393. It is also noted with concern that the lack of information in the report on the implementation of article 5 of the Convention makes it difficult for the Committee to evaluate the situation with regard to the enjoyment of civil, political, economic, social and cultural rights by the population in Algeria, and in particular by members of the various ethnic groups.

394. The lack of comprehensive information on instances in which complaints are lodged by individuals alleging acts of racial discrimination and on compensation paid to victims of such acts makes it difficult to assess whether the provisions of article 6 of the Convention are implemented effectively in Algeria.

395. While the statement made by the delegation of the State party regarding human rights training of judges and law enforcement officials, as well as human rights education at the university level, is welcomed, the information in the written report does not enable the Committee to evaluate the extent and impact of such programmes.

E. Suggestions and recommendations

396. The Committee recommends that the State party describe in its next periodic report all the legislative, judicial, administrative or other measures which give effect to the provisions of the Convention, in accordance with article 9.

397. The Committee recommends that the State party consider incorporating in its domestic legislation a prohibition of racial discrimination in accordance with the Convention.

398. The Committee reiterates its recommendation, made during the consideration of the tenth periodic report, that the State party provide the information on the composition of the population requested in paragraph 8 of the reporting guidelines and, in particular, information on social indicators reflecting the situation of the ethnic groups, including the Berbers. Such information is essential for the Government itself to detect possible patterns of discrimination and for the Committee to monitor effectively the implementation of the Convention. In this connection, the Committee draws the attention of the Government of Algeria to its General Recommendation IV and suggests that the State party take into consideration General Recommendation VIII, concerning the identification of members of particular racial or ethnic groups.

399. The Committee stresses that the provisions of article 4 of the Convention are mandatory and should be fully implemented, as stated in its General Recommendation VII. In order to prevent the dissemination of racist ideas and incitement to racial hatred, the Committee recommends that the State party comply fully with its obligations under article 4 of the Convention and, in particular, declare illegal and prohibit any organization which promotes or incites racial discrimination. Due account should be taken of the Committee's General Recommendation XV.

400. The Committee recommends that the enjoyment by everyone without discrimination of the rights listed in article 5 of the Convention be ensured, in particular the right to security of person and protection against violence or bodily harm (art. 5 (b)). In connection, with article 5 (e) of the Convention, adequate indicators and other means of monitoring the economic and social conditions of the ethnic groups should be developed. In that regard, the Committee recommends that the State party provide, in the next periodic report, fuller information on the protection of the rights to work, housing, and education from discrimination on grounds of ethnic origin, contained in article 5.

401. The Committee recommends that the next periodic report of the State party contain all available information on complaints and court cases relating to acts of racial discrimination and also information on the right of individuals to seek adequate reparation for any damage suffered as a result of such discrimination, as provided for in article 6 of the Convention.

402. The Committee recommends that the Government of Algeria continue and strengthen its efforts in human rights training activities for judges, lawyers and magistrates and put special emphasis on education and sensitization programmes about the provisions of the Convention, in accordance with article 7 of the Convention. That type of training should also be provided to law enforcement officials and members of the armed forces. Due account should be taken of the Committee's General Recommendation XIII.

403. The Committee recommends that the State party launch an effective information campaign in order to inform and educate all sectors of society on the provisions of the Convention, and inform them of the remedy available under article 14 of the Convention. Additionally, the State party should ensure the wide dissemination of its report and of the concluding observations of the Committee.

404. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

405. The Committee recommends that the State party's next periodic report be a comprehensive report and address all the concerns expressed by the Committee.

Ethiopia

406. At its 1217th meeting, held on 5 August 1997 (see CERD/C/SR.1217), the Committee reviewed the implementation of the Convention by Ethiopia based upon its previous report (CERD/C/156/Add.3) and its consideration by the Committee (see CERD/C/SR.871-872). The Committee noted with regret that no report had been submitted to the Committee since 1989.

407. The Committee regretted that Ethiopia had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of Ethiopia setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.

408. The Committee suggested that the Government of Ethiopia may wish to avail itself of the technical assistance offered under the advisory services and technical assistance programme of the United Nations High Commissioner for Human Rights/Centre for Human Rights, with the aim of drawing up and submitting by the fifty-second session a report prepared in accordance with the reporting guidelines.

Philippines

409. At its 1218th and 1219th meetings, held on 5 and 6 August 1997, the Committee considered the eleventh to fourteenth periodic reports of the Philippines (CERD/C/299/Add.12) and at its 1231st meeting, held on 14 August 1997, adopted the following concluding observations.

A. Introduction

410. After a lapse of eight years, the Committee welcomes the opportunity to resume the dialogue with the State party, on the basis of its eleventh to fourteenth periodic reports. While a number of important questions raised and recommendations made during the consideration of the tenth report of the State party have not been addressed in the present report, the Committee expresses its appreciation for the answers provided by the delegation to the many questions asked in the course of the discussion, which enabled it to obtain a clearer picture of the actual situation in the country with respect to the implementation of the Convention.

B. Factors and difficulties impeding the implementation of the Convention

411. It is noted that, although the State party has recently undergone important reforms at the political, economic and social levels, the authorities have not yet been able to control endemic poverty, which exacerbates social inequalities and disparities in development, affecting in particular vulnerable groups, including the indigenous cultural communities and Muslim Filipinos.

C. Positive aspects

412. The Committee welcomes the proclamation of the National Decade for Filipino Indigenous People (1995-2005) and the presentation to the President, in compliance with Memorandum Order No. 335 of 26 January 1996, of the Philippines Human Rights Plan, comprising the sectoral action plans for human rights protection of indigenous cultural communities and Muslim communities.

413. The Committee expresses its satisfaction at the adoption of various measures aimed, directly or indirectly, at preventing and combating disparities between various ethnic groups, in particular, the adoption of the Social Reform Agenda under the Medium-Term Development Plan, aimed at fighting poverty and attaining social justice; the promulgation of the Rules and Regulations on Children of Indigenous Cultural Communities, seeking to provide those children with basic health, nutrition and other social services; the adoption of measures by the Department of Labour and Employment for the prevention of discrimination against workers from minority groups; and the granting of scholarships to children and youths from the indigenous cultural communities through the National Integration Study Grant Programme and the Special Ethnic Groups Educational Assistance Programme.

414. The Committee notes with appreciation that a number of steps have been taken towards the peaceful settlement of the conflict between the Government and the Muslim Filipino community in the southern part of the country, such as the negotiation of a ceasefire in 1990 and the signing of a peace agreement in 1996 between the Government and the Moro National Liberation Front; the issuance of Executive Order No. 371 of 2 October 1996 establishing the Special Zone of Peace and Development, the Southern Council for Peace and Development, and the Consultative Assembly; and the adoption on 15 October 1996 of Administrative Order No. 297, on the implementation of the provision in the peace agreement for members of the Moro National Liberation Front to join the National Police.

415. The Committee notes with satisfaction, with respect to article 5 (d) (v) of the Convention, the launching of the Comprehensive Agrarian Reform Programme to improve the tenure of indigenous cultural communities in their ancestral lands, and the issuance of Administrative Order No. 02, Series of 1993, providing for the issuance of certificates of ancestral land and domain claims to individuals, families or clans, and indigenous communities, even though those certificates do not constitute titles of property in land.

416. With respect to article 7 of the Convention, the Committee welcomes the adoption of measures, such as the issuance of Executive Order No. 27 of 1986, instructing the Department of Education, Culture and Sports to include the study of human rights in the curricula at all levels of education; the creation by the Department of Education, Culture and Sports of "writeshops" on peace education in which members of indigenous cultural communities participated; and the setting up by the Department of Education, Culture and Sports and the Commission on Human Rights of training programmes on human rights for supervisors, who will in turn train teachers on ways to introduce human rights education in schools.

417. The Committee is encouraged by the several bills pending before Congress specifically dealing with the solution of the fundamental issue of the restoration of the indigenous cultural communities' rights to their ancestral domains/lands (House Bill No. 33 and Senate Bill No. 1728), with equal employment opportunities for members of the indigenous cultural communities and Muslim Filipinos (Senate Bills Nos. 153, 212 and 1057) and with improvement of the economic and social situation of the cultural communities (Senate Bill

No. 1476). The Committee is further encouraged by the action of President Ramos in requesting Congress to enact those bills into law by November 1997.

418. The Committee welcomes the establishment of the Commission on Human Rights and of the Tanodbayan (ombudsman).

D. Principal subjects of concern

419. In connection with the statement in paragraph 4 of the report, that "racial discrimination, as defined under article 1, paragraph 1, of the Convention, is alien to the prevailing mores and culture of the Filipino people. The type of racial discrimination, similar to what was practiced in South Africa when the policy of apartheid was not yet dismantled, has never officially or factually existed in the Philippines, neither in a systemic nor formal nor intermittent nor isolated manner. Hence, there have never been any references to the existence of a discriminatory policy on racial grounds nor have there been any allegations of instances of racial discrimination as a specific kind of human rights violation in the Philippines, even before or immediately after the Philippines adopted and ratified the Convention on 21 December 1965 and 15 September 1967, respectively" (CERD/C/299/Add.12). The Committee emphasizes that the scope of article 1, paragraph 1, of the Convention is broader. It covers any distinction, exclusion, restriction or preference that has either the purpose or the effect of nullifying or impairing the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis in the political, social, cultural or any other field of public life. Moreover, the report and the information received show that important parts of the population are living in conditions which do not guarantee the exercise of human rights on equal terms.

420. It is noted with concern that there is no specific legislation prohibiting racial discrimination. The Constitution incorporates a comprehensive catalogue of human rights, but legislative, judicial and administrative measures to implement those provisions are still lacking. In this respect, reference is made in particular to articles 2, 4 and 7 of the Convention, which explicitly require States parties to adopt specific measures to give full effect to the rights in question.

421. There has been no clarification of whether Presidential Decree 1350-A of 1978, declaring violations of the Convention unlawful and providing penalties for such violations, is in full conformity with the provisions of article 4 of the Convention, which require that legislative provisions be adopted to classify as an offence the dissemination of ideas based on racial superiority or hatred, acts of violence or incitement to violence against any race or group of persons of another colour or ethnic origin and the provision of assistance to racist activities.

422. The lack of specific disaggregated data concerning the economic and social situation of and existing disparities between various indigenous communities and ethnic tribes living in the country makes it difficult to assess the extent to which they enjoy the rights listed in the Convention.

423. There is no information in the report on the specific laws and practice with respect to the implementation of article 5 of the Convention, especially with respect to the enjoyment of those rights by members of the indigenous cultural communities and the Muslim Filipinos.

424. With respect to article 5, paragraphs (a) and (b), of the Convention, there is concern that many reported cases of disappearances, including members of indigenous peoples and Muslim Filipinos, have not yet been fully investigated and brought before the courts.

425. In connection with article 5 (d) (i) and (v) of the Convention, concern is expressed at reports of forced evictions and displacements of indigenous populations in development zones, as well as at reports that specific groups of indigenous peoples have been denied by force the right to return to some of their ancestral lands.

426. With respect to article 6 of the Convention, there is concern at the lack of legislative provisions to implement the right to just and adequate reparation or satisfaction for any damage suffered as a result of acts of racial discrimination. Moreover, the absence of reported violations of Presidential Decree 1350-A and of complaints against acts of racial discrimination to the courts, raises doubts as to the extent of the publicity given to and the effectiveness of available remedies for victims of racial discrimination.

427. The information concerning the 1990 population census does not clarify sufficiently the questions and comments raised and made during the consideration of the tenth report, particularly in respect of indigenous cultural communities and ethnic tribes.

E. Suggestions and recommendations

428. The Committee recommends that priority attention be given to the enactment of the bills related to indigenous cultural communities and Muslim Filipinos pending before Congress, that enabling laws be adopted to give full effect to constitutional provisions dealing with the promotion and protection of human rights in general and to the rights protected by the Convention in particular, and that domestic legislation be amended so that it prohibits, as appropriate, racial discrimination as defined in article 1, paragraph 1, of the Convention.

429. The Committee recommends that in its next periodic report the State party deal with measures promoting the interests and welfare of the indigenous cultural communities and Muslim Filipinos as an integral part of its implementation of the provisions of the Convention rather than as a separate chapter.

430. The Committee also recommends that the next periodic report contain comprehensive information on the powers, functions and activities of the Commission on Human Rights and the Ombudsman, especially on the number and the substance of complaints received, and the action taken as a result.

431. The Committee recommends that information on the ethnic composition of the population and the standard of living of each group, as well as other educational and social indicators, analyzed and summarized on the basis of the 1990 population census, be provided in the next periodic report, with particular emphasis on indigenous ethnic communities and tribes.

432. The Committee reaffirms that the provisions of article 4 of the Convention are mandatory, as stated in its General Recommendation VII (32), and recommends that Presidential Decree 1350-A of 1978 be reviewed in the light of that recommendation. The Committee stresses in this regard that the State party

should fulfil all its obligations under this article and that, in doing so, it take fully into account General Recommendation XV (42).

433. The Committee recommends that action be taken at the legislative, administrative and judicial levels to protect the right of everyone, without discrimination, to enjoy their rights under article 5 of the Convention, especially the rights to equal treatment before the courts and all other organs administering justice, to security of person and protection by the State against violence or bodily harm, and to freedom of movement and residence.

434. The Committee recommends that the State party ensure protection against any acts of racial discrimination through the competent courts, in accordance with article 6 of the Convention, by, inter alia, strengthening the court system, the independence of the judiciary and the confidence of the population therein. It further recommends that the right to seek just and adequate reparation for victims of acts of racial discrimination be fully guaranteed under the law and in practice.

435. The Committee recommends that further action be taken to ensure that the provisions of the Convention are more widely disseminated, particularly among members of minority groups and among the judiciary, the police and government officials. In this respect, the Committee recommends that special emphasis be put on the dissemination of information about remedies available in case of racial discrimination.

436. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

437. It is noted that the State party has not made the declaration provided in article 14 of the Convention, and some members of the Committee requested that the possibility of making the declaration be considered.

438. The Committee recommends that the State party's next periodic report, due on 4 January 1998, be a comprehensive report and that it address all the points raised in the present observations.

Denmark

439. At its 1220th and 1221st meetings, held on 6 and 7 August 1997, the Committee considered the thirteenth periodic report of Denmark (CERD/C/319/Add.1) and at its 1230th meeting, held on 13 August 1997, adopted the following concluding observations.

A. Introduction

440. The Committee notes with appreciation the State party's readiness to continue the dialogue with it by sending a highly specialized delegation to present the thirteenth periodic report, which is an indication of the importance attached by the Government of Denmark to its obligations under the Convention. The Committee appreciates the frankness and comprehensiveness of the updated report, which in general complies with the reporting guidelines and contains detailed supplementary information in response to most of the suggestions and recommendations adopted by the Committee during its consideration of the previous periodic report. The Committee also welcomes the additional written

and oral information provided by the State party's delegation, which enabled it to establish a very constructive and fruitful dialogue with the Committee.

B. Factors and difficulties impeding the implementation of the Convention

441. It is noted that there are no significant factors or difficulties that prevent the effective implementation of the Convention in Denmark.

C. Positive aspects

442. It is noted with appreciation that the State party has ensured a wide dissemination of its reports under the Convention, in the national language, to members of the Parliament, non-governmental organizations and the public at large, and on the Internet, together with the concluding observations of the Committee.

443. The Committee welcomes the several positive legislative measures taken to combat ethnic discrimination, in particular in the labour market. The Act on Prohibition against Differential Treatment in the Labour Market, which came into effect on 1 July 1996, is noted with interest, as well as the "Ice-breaker arrangement", which aims at providing financial assistance, under certain conditions, to enterprises of up to 250 employees which hire highly educated immigrants or refugees. Furthermore, programmes initiated in the field of placement services and vocational training courses for immigrants and refugees, to improve their entry into the labour market, are noted with interest.

444. Efforts made by the State party to facilitate the integration of refugees and immigrants, including the draft bill on integration of refugees and immigrants prepared by the Integration Committee, are noted with satisfaction.

445. Efforts made by the State party to ensure that the composition of the police service reflects that of the population by including persons of non-Danish ethnic origin are noted with satisfaction. Improvements in the human rights training of the police, designed to combat negative attitudes towards minorities and to promote good relationships with ethnic minorities, are welcomed.

446. The allocation of special funds for assistance in the operation of ethnic associations and in cultural and information activities for and about immigrants and refugees, as well as in the development of integration projects, is welcomed as a step forward in the implementation of integration policy.

447. It is noted with appreciation that Denmark has ratified the amendments to article 8, paragraph 6, of the Convention.

448. The active participation of the State party in international efforts to combat racism is welcomed.

D. Principal subjects of concern

449. The Committee regrets that the present periodic report does not provide sufficient information previously requested on the implementation of article 3

of the Convention, with particular reference to the allocation of housing and requirements to attend special schools.

450. Although the amendment of section 266 b of the Penal Code assists the more effective implementation of obligations deriving from article 4 of the Convention, two concerns remain. First, that prosecuting practice is focusing too much on propaganda activities while other means of disseminating racist ideas are treated as minor offences; this gives a restrictive interpretation to the provisions of this article. Secondly, the Committee expresses particular concern at the lenient attitude towards the dissemination of racist ideas over the radio. It is also noted that organizations using racist propaganda to incite racial discrimination are not declared illegal and are not prohibited.

451. Concern is expressed over reports of discriminatory practices affecting residents of non-Danish ethnic or national origin, especially in respect of employment, housing and bank loans.

452. Concern is expressed that a rigid implementation of the law of 1981 on names has a discriminatory effect on residents of non-Danish ethnic or national origin.

453. The Committee noted with concern that the State party did not provide information on the implementation of article 6 of the Convention, on effective protection and remedies and on the right to seek just and adequate reparation or satisfaction.

454. Concern is also expressed over the insufficiency of the information on the relocation of seal hunters' villages in Thule in 1953 and, in particular, about the persistent long delay in resolving the compensation claim of the population of Thule, displaced from their traditional hunting grounds and places of settlement.

E. Suggestions and recommendations

455. The Committee recommends that the State party provide detailed information in its next periodic report on the implementation of article 3 of the Convention, in the light of the Committee's General Recommendation XIX.

456. The Committee reaffirms that the provisions of article 4 of the Convention are of a mandatory character and recommends that the State party introduce measures that fully implement that provision. It is recommended that the procedure and practice of licensing radio transmissions be reconsidered.

457. The Committee encourages the State party to transmit in its next periodic report up-to-date information concerning judgments on cases falling under article 4 of the Convention and under section 266 b of the Danish Penal Code.

458. The Committee recommends that the State party review its measures for guaranteeing, in accordance with article 5 of the Convention, the economic and social rights of residents of non-Danish ethnic or national origin, with particular reference to the right to work and to housing. The attention of the State party is drawn to the Committee's General Recommendation XI.

459. The Committee recommends that the State party include information in its next periodic report on the implementation of article 6 of the Convention. This information should also pertain to Greenland and the Faroe Islands.

460. The Committee reiterates its previous recommendation regarding information on compensation for the population of Thule, Greenland, who have been displaced from their traditional hunting grounds and places of settlement. The Committee recommends that the State party inform it of the latest developments concerning the agreement concerning assistance between the Danish authorities and the Greenland Home Rule Government.

461. The Committee recommends that the State party's next periodic report contain specific information regarding the status and implementation of the Convention in Greenland and the Faroe Islands, and that it address all the concerns expressed by the Committee.

Poland

462. At its 1222nd and 1223rd meetings, held on 7 and 8 August 1997, the Committee considered the thirteenth and fourteenth periodic reports of Poland (CERD/C/299/Add.10), and at its 1235th and 1236th meetings, held on 18 August 1997, adopted the following concluding observations.

A. Introduction

463. The Committee welcomes the report submitted by the Government of Poland, which generally follows the guidelines and contains information about changes and developments that have occurred since the consideration of the previous periodic report. The Committee also welcomes the supplementary information given to it during the consideration of the report. It expresses its appreciation for the dialogue with the high-level delegation and for the detailed answers given orally to the questions raised by members.

464. The Committee notes with satisfaction the commitment of the State party to make shortly the declaration under article 14 of the Convention recognizing the Committee's competence to examine complaints of persons who claim to be victims of violation by the State party of the rights set forth in the Convention.

B. Factors and difficulties impeding the implementation of the Convention

465. The economic changes that are still taking place in Poland may affect the full enjoyment of economic, social and cultural rights, especially of those belonging to minority groups.

C. Positive aspects

466. The recent adoption by the National Assembly of the State party of a new Constitution, which will enter into force on 17 October 1997 and under which the Convention will be directly applicable by the courts, is noted with interest. It is also noted that a new Penal Code, a Code of Criminal Procedure and a Code of Execution of Penalties have been adopted and all will enter into force on 1 January 1998.

467. The measures taken by the competent authorities of the State party in recent cases of incitement to racial hatred are welcomed. The work of the

Ombudsman in relation to the promotion and protection of human rights is also a positive development.

468. The efforts undertaken by the State party to protect minorities are welcomed. In this regard, the bilateral treaties, which include specific provisions of protection against racial discrimination and guarantees of equal rights with regard to minorities, that have been signed with neighbouring countries are an encouraging development. It is also noted with satisfaction that the Act on the Elections to the Sejm of 28 May 1993 provides measures for promoting minority rights in the electoral process.

469. The agreement on the relation between the State and three main Churches adopted on 20 February 1997 is welcomed, as is the agreement between the State and the Jewish communities of Poland in which, inter alia, the State recognizes their ownership rights of the property which belonged to those communities on 1 September 1939 and was taken over by the State after World War II.

D. Principal subjects of concern

470. Despite the written and oral information provided by the Polish representative regarding the self-executing character of the Convention in domestic law, concern is expressed at the absence of specific legislative measures to enforce some of its provisions.

471. It is noted with concern that several cases of serious acts of violence relating to racial discrimination have taken place in the State party during the period under review, targeting especially Jews and Roma minorities.

472. Concern is expressed at the insufficient legal framework to declare illegal and to prohibit non-political groups and associations which disseminate ideas based on racial superiority or hatred and incitement to racial discrimination, as well as acts of violence or incitement to such acts against any race or group of persons.

473. With regard to the implementation of article 5 of the Convention, concern is expressed that the right to work and to housing of persons belonging to minorities may not be sufficiently protected from racial discrimination in the current period of economic transition.

474. It is noted with concern that, despite evident efforts made by the authorities, children belonging to minority groups do not always have access to education in their own language.

E. Suggestions and recommendations

475. The Committee suggests that the State party fully clarify in its next periodic report the status of the Convention in relation to domestic law, and it would welcome in the next report examples of court decisions related to this matter if any are available.

476. With regard to non-political groups and associations which disseminate ideas based on racial superiority or hatred or incitement to racial discrimination, as well as acts of violence or incitement to such acts against any race or group of persons, the Committee recommends that the State party take all measures required under the Convention to prohibit their existence.

477. With regard to statistical information on minorities, the Committee suggests that the State party take all appropriate measures to compile more precise information, and it recommends that such data be included in the next periodic report of the State party.

478. The Committee recommends that the State party also take measures to more fully guarantee economic, social and cultural rights, as defined in article 5 (e), for minority groups, including the right to work and to housing, and that it include more comprehensive information in its next periodic report on the implementation of the provisions of article 5 (e). The Committee also recommends that the State party adopt a comprehensive programme of action to promote and protect the rights of the Roma population.

479. While acknowledging the recent efforts made by the State party in this regard, the Committee recommends that the authorities increase their efforts to give children belonging to minorities fuller access to education in their own language. It also recommends that the authorities take appropriate measures to meet the specific educational needs of Roma children.

480. The Committee recommends that the next report contain detailed information regarding prosecutions for acts of racial discrimination.

481. The Committee recommends that the State party ensure the wide dissemination of its report and of the Committee's concluding observations.

482. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

483. The Committee recommends that the State party's next periodic report be an updating report and address the concerns expressed by the Committee.

Guyana

484. At its 1242nd meeting, held on 21 August 1997 (see CERD/C/SR.1242), the Committee reviewed the implementation of the Convention by Guyana. The Committee noted with regret that no initial report has been submitted to it since 1978.

485. The Committee regretted that Guyana had not responded to its invitation to participate in the meeting and to furnish relevant information. The multi-ethnic composition of the population and the existence of indigenous communities in Guyana make the implementation of the Convention particularly important. The Committee decided that a communication should be sent to the Government of Guyana setting out its reporting obligations under the Convention and urging that the dialogue with the Committee be started as soon as possible.

486. The Committee suggested that the Government of Guyana may wish to avail itself of the technical assistance offered under the advisory services and technical assistance programme of the United Nations High Commissioner for Human Rights/Centre for Human Rights, with the aim of drawing up and submitting its initial report, in accordance with the reporting guidelines, by the Committee's fifty-second session.

Suriname

487. At its 1237th meeting, held on 19 August 1997 (see CERD/C/SR.1237), the Committee reviewed the implementation of the Convention by Suriname. The Committee noted with regret that no initial report has been submitted to it since 1984.

488. While understanding the internal difficulties faced by the State party, the Committee regretted that Suriname had not responded to its invitation to participate in the meeting and to furnish relevant information. The multi-ethnic composition of the population and the existence of indigenous communities in Suriname make implementation of the Convention particularly important. The Committee decided that a communication should be sent to the Government of Suriname setting out its reporting obligations under the Convention and urging that the dialogue with the Committee be resumed as soon as possible.

489. The Committee suggested that the Government of Suriname may wish to avail itself of the technical assistance offered under the advisory services and technical assistance programme of the United Nations High Commissioner for Human Rights/Centre for Human Rights, with the aim of drawing up and submitting its initial report, in accordance with the reporting guidelines, by the Committee's fifty-second session.

Sweden

490. At its 1224th and 1225th meetings, held on 8 and 11 August 1997, the Committee considered the twelfth periodic report of Sweden (CERD/C/280/Add.4), and at its 1240th meeting, held on 20 August 1997, adopted the following concluding observations.

A. Introduction

491. The Committee welcomes the detailed report submitted by the State party, which contains relevant information about measures taken with respect to the implementation of the Convention since the consideration of the eleventh periodic report. The Committee also welcomes the detailed answers to questions raised and concerns expressed during the consideration of the report. It expresses its appreciation for the frank and constructive dialogue with the delegation and for the comprehensive and thorough answers given orally to the wide range of questions asked by members.

B. Factors and difficulties impeding the implementation of the Convention

492. It is noted that the recession has had serious consequences for the State party in general and has led to severe setbacks for refugees and immigrants, in particular. The consequences of the recession have been most felt in the labour market situation of refugees and immigrants, who have been found worse off than Swedes in most areas of society, and the gap has been widening.

C. Positive aspects

493. The high standards of the State party regarding the protection of human rights and its affirmed commitment to implementing the provisions of the Convention are noted with appreciation. Sweden is among the limited number of States parties that has made the declaration under article 14 of the Convention and has accepted the amendment to article 8, paragraph 6, of the Convention.

494. The statement to the effect that the State party has in just a few decades developed from a relatively ethnically homogenous society into a multicultural society (para. 2 of the report) has been noted with great interest and appreciation.

495. The State party intends to review the Act against Ethnic Discrimination of 1994 because it is not having the desired effect.

496. The Committee welcomes the adoption of new legislation which expands the definition of refugee.

497. The activities of various governmental institutions concerned with integration policies and with combating racism and xenophobia, such as the Ombudsman against Ethnic Discrimination, the Swedish Immigration Board, the Parliamentary Commission entrusted with the task of reviewing Swedish immigration and refugee policies, and the Parliamentary Commission reviewing policies with respect to the long-term integration of immigrants and refugees in Sweden, as well as the active participation of the State party in international efforts to combat racism, are welcomed.

498. The Committee also welcomes the establishment of the Sami Parliament and will follow its work with interest.

499. Note is taken with appreciation of the fact that in Sweden non-nationals have the right to vote and stand for election at municipal elections.

500. It is also noted with appreciation that the State party has established a system of education for refugees and immigrants.

D. Principal subjects of concern

501. The Committee expresses concern that crimes with racial motives have increased since 1980, as found by a research project conducted by the National Council for Crime Prevention.

502. The social position of Roma, particularly in such domains as education and employment, has been found less favourable than that of the rest of the population. As a result, many of them depend on social welfare benefits.

503. Concern is expressed that existing legislation does not fully implement article 4 of the Convention.

504. Concern is expressed about the low and declining participation by non-nationals in local elections.

505. Concern is also expressed at the activities based on ideas or theories of racial superiority of various organizations and individuals in the State party,

and at the increasing dissemination of recorded music, the lyrics of which promote hatred against ethnic minorities.

E. Suggestions and recommendations

506. The Committee recommends that the State party, while reviewing its legislation, pay particular attention to the full implementation of the provisions of the Convention, in particular article 4, and calls attention to its General Recommendation XV.

507. The Committee recommends that the State party provide in its next periodic report information on the number of complaints and judicial decisions concerning and the compensation awarded for acts of racism in all their forms.

508. It is the view of the Committee that further measures should be taken to ensure the use by Sami of their own language.

509. The Committee recommends that the policy of promoting equal opportunity in economic and social life for immigrants, refugees and ethnic minorities be reinforced by appropriate legislative, administrative and other measures.

510. The Committee suggests that further action be taken to ensure that the provisions of the Convention are more widely disseminated among the Roma, the Sami and "Tornedal Finns", immigrant associations and other ethnic groups, as well as among government officials, employers and trade unions. The public should also be better informed about available recourse under article 14 of the Convention. It is recommended that the twelfth periodic report be widely disseminated, as well as the present concluding observations adopted by the Committee.

511. The Committee recommends that the State party's next periodic report, due on 5 January 1998, be an updating report and that it address all the points raised in the present observations.

The former Yugoslav Republic of Macedonia

512. The Committee considered the initial, second and third periodic reports, consolidated into one report, of the former Yugoslav Republic of Macedonia (CERD/290/Add.2) at its 1226th and 1227th meetings (CERD/C/SR.1226 and 1227), held on 11 and 12 August 1997, and, at its 1241st meeting, held on 21 August 1997, adopted the following concluding observations.

A. Introduction

513. The Committee commends the State party on the quality of its report prepared in accordance with the Committee's guidelines. It notes with appreciation the high-level delegation which presented the report, indicating the importance attached by the State party to the Convention. It further notes the open and constructive dialogue with representatives of the State party. The Committee expresses its appreciation to the delegation of the State party for the additional information that it provided to the Committee orally and in writing.

B. Factors and difficulties impeding the implementation of the Convention

514. It is recognized that the State party has experienced considerable economic difficulties, partly resulting from hostilities in the Balkan region, which have had a negative impact on the enjoyment of human rights, including those protected by the Convention.

C. Positive aspects

515. The State party is commended for the many legislative acts that have been adopted in order to comply with the provisions of the Convention, including the Act on Public Information; the Act on Telecommunications, which prohibits the use of mass media to incite national, racial or religious hatred or intolerance; the Act on Political Parties, which prohibits the establishment of those parties whose aim is the incitement of national, racial and religious hatred and intolerance; and the Act on Social Organizations and Citizens' Associations, which prohibits activities which violate human freedoms and rights or encourage national, racial or religious hatred or intolerance.

516. The willingness affirmed by representatives of the State party during the oral dialogue to make the declaration under article 14 of the Convention and to consider the ratification of the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention, is welcomed.

D. Principal subjects of concern

517. The lack of statistical information on the invocation of the various protections against racial discrimination, in particular those referred to in paragraph 515, is noted with concern.

518. It is noted that the representation of various ethnic groups in the judiciary, Parliament and other public bodies and agencies of government continues to be below their respective percentages in the population.

519. With respect to article 5 of the Convention, the lack of sufficient information on the participation of ethnic minorities in public life and on their economic and social situation, especially with regard to access to employment, health, education and housing, is regretted.

520. Concern is expressed at the impossibility of conducting the census in the whole territory of the State party.

521. Concern is also expressed over the low levels of participation, in particular in secondary and higher education, of certain minorities, notably Roma children and Albanian girls in rural areas.

522. With regard to article 7 of the Convention, concern is expressed that there is little or no reference to the Convention in human rights educational programmes.

E. Suggestions and recommendations

523. More information is requested in the next periodic report concerning the participation of the various minorities in public life and the implementation and enjoyment by them on a non-discriminatory basis of the human rights contained in the various laws.

524. The Committee encourages the State party to continue its programmes of affirmative action in order to increase the representation of the ethnic minorities in public life; including the civil service, army and police.

525. Emphasizing the role of the justice system in eliminating racial discrimination, the Committee asks to be provided with additional information on whether the Convention is directly applicable before the domestic courts, on the effectiveness of remedies in cases of racial discrimination, on the number of complaints of racial or racially-motivated offences and on the judicial action taken on those complaints and the redress or compensation awarded to victims.

526. The Committee recommends that the State party continue its efforts to facilitate the participation of different ethnic minorities in the educational system, in particular at the secondary and higher educational level, and to provide for the training of teachers for minority languages in public establishments.

527. The Committee suggests that the State party consider incorporating the Convention into its human rights programmes in school curricula with a view to promoting the prevention of racial discrimination.

528. While recommending that the State party provide greater educational and cultural opportunities to the Albanian minority, it was also felt that that minority should truly see its future as lying within the State party.

529. The Committee recommends that that State party's next periodic report, due on 17 September 1998, be an updating report and that it address all the points raised in the present observations.

Argentina

530. At its 1228th and 1229th meetings, held on 12 and 13 August 1997, the Committee considered the eleventh to fourteenth periodic reports of Argentina (CERD/C/299/Add.11) and, at its 1240th and 1241st meetings, held on 20 and 21 August 1997, it adopted the following concluding observations.

A. Introduction

531. The Committee welcomes the opportunity to continue the dialogue with the State party based on the eleventh to fourteenth periodic reports and on the core document. The information provided orally by the delegation and the replies to the many questions asked by the members of the Committee filled the gaps that resulted from the limited information which the report contained on some articles of the Convention and gave the Committee a clearer idea of the situation with regard to the implementation of the Convention in Argentina.

B. Factors and difficulties impeding the implementation of the Convention

532. The Committee noted that Argentina is going through a difficult economic period which makes the implementation of the Convention more difficult, since some of the main victims of unemployment and poverty are members of indigenous populations and ethnic minorities.

C. Positive aspects

533. It notes with satisfaction that international human rights treaties, including the Convention, rank higher than domestic law, in accordance with article 75, paragraph 22, of the 1994 Constitution, and that individuals have the possibility of directly invoking the provisions of the Convention in the courts.

534. The establishment, by Act. No. 24284 of 1 December 1993, of the post of Ombudsman as an independent body responsible for protecting the rights and interests of individuals and communities against acts or omissions by the national public administration and with the power to launch investigations on its own initiative or at the request of an individual is welcomed as a positive measure.

535. The Committee notes with satisfaction that, under article 43 of the 1994 Constitution, an application for amparo may be filed in the event of discrimination of any kind.

536. The constitutional provisions concerning indigenous peoples, which were introduced during the reform of the 1994 Constitution, are a definite step forward. This is true, for example, of the granting of legal personality to indigenous communities; guarantees of respect for the cultural identity of such communities; community possession and ownership of land; and the participation of indigenous persons in the management of natural resources and in other activities of concern to them.

537. The Committee welcomes the establishment in the Ministry of the Interior of the National Institute to Combat Discrimination, Xenophobia and Racism, which was given the responsibility by Act No. 242.515 of 28 July 1995 of developing national policies and practical measures to combat discrimination, xenophobia and racism.

538. It also notes that the National Institute to Combat Discrimination, Xenophobia and Racism has adopted important measures relating to bilingual and cross-cultural education, the integration of indigenous scholarship students in the traditional school system and financial assistance for projects to raise the standard of living of certain communities. It welcomes, in particular, the projects being implemented for the Wichi ethnic group in the Chaco region.

539. The Committee welcomes the steps taken by the National Institute of Indigenous Affairs to transfer ancestral lands and property to the indigenous communities which have always occupied them, including cooperation with provincial authorities in regularizing land titles.

540. In connection with article 5 of the Convention, it welcomes the conclusion of a bilateral agreement with Bolivia to regularize the situation of some

500,000 Bolivians living illegally in Argentina, as well as the legalization of the situation of 250,000 foreigners in Argentina under Decree No. 1033/92.

541. The establishment of the Refugee Eligibility Committee and its close cooperation with the Office of the United Nations High Commissioner for Refugees are positive developments.

542. It views positively the adoption of Decree No. 232/92, providing that documents on Nazi criminals are no longer confidential for reasons of State, as a means of speeding up investigations of Nazi criminals who might have found refuge in Argentine territory, and the establishment in 1992 of the Commission to Shed Light on Nazi Activities in Argentina.

543. It notes with satisfaction the organization of seminars and training programmes on human rights and the prevention of racial discrimination for judges and the staff of the Federal Prison Service.

544. It also notes with great interest the implementation by the Ministry of the Interior of the National Anti-Discrimination Programme, which is designed to support popular education programmes conducted by non-governmental organizations and which provide for the possibility of emergency action to deal immediately with acts of discrimination.

D. Principal subjects of concern

545. It regrets the lack of information on the subject of the representation of indigenous populations and other ethnic minorities in the civil service, police, judicial system, Congress and more generally, in the socio-economic life of the country, since it hampers a full evaluation by the Committee of the implementation of the provisions of the Convention relating to such populations.

546. While noting with satisfaction that racial motivation is deemed by Act No. 23-592 of 1988 as an aggravating circumstance in the case of various offences punishable under criminal law, the Committee regrets that the provisions of article 4 of the Convention have not been fully implemented through the specific criminalization of the various acts referred to in that article, such as dissemination of and propaganda in racist ideas, incitement to racial discrimination, racial violence and the establishment of racist organizations.

547. It regrets the scant information provided on the implementation of the provisions of article 5 of the Convention, even though reference was made to discrimination against members of indigenous populations and minorities in the enjoyment of certain rights, including those provided for in article 5 (e) (i), (iv) and (v) of the Convention.

548. With regard to the transfer of ancestral lands and property to indigenous communities, it notes with concern that problems continue to exist in practice and that, in some cases, enormous difficulties, which are often caused by land owners, are delaying these transfers. It also notes with concern that some communities are reported to have been subjected to intimidation and pressures to renounce their claims to such land. It also regrets that information has not been provided about the procedures for consulting indigenous communities during the land transfer process.

549. The Committee regrets that there is still a lack of information on remedies filed, rulings handed down and compensation awarded for acts of racism, as well

as on amparo proceedings instituted as a result of discrimination. In view of this lack of information, the Committee has been unable to determine to what extent article 6 of the Convention is effectively implemented in Argentina or to assess the role and shortcomings of the judicial authorities in this regard.

E. Suggestions and recommendations

550. The Committee recommends that additional information should be provided in the next report on the statutes, membership and activities of the National Institute to Combat Discrimination, Xenophobia and Racism, on the National Institute of Indigenous Affairs and on the implementation of the National Anti-Discrimination Programme.

551. The Committee requests the State party to include in its next report any available information on the socio-economic situation of members of indigenous communities and ethnic minorities, particularly their participation in the political and economic life of the country and their representation in federal and provincial governments. It also invites the State party to provide in its next report specific information on the practical implementation of all the rights which article 5 of the Convention provides for all inhabitants of Argentina. In this connection, the Committee draws the attention of the State party to the need to develop indicators to evaluate policies and programmes for the protection and promotion of the rights of vulnerable population groups.

552. The Committee urges the State party to fulfil its obligation under article 4 of the Convention to declare as an offence punishable by law any form of racial discrimination, including dissemination of and propaganda for racist ideas, incitement to racial discrimination, racial violence and the establishment of racist organizations.

553. With regard to the transfer of land to indigenous communities, the Committee recommends that the implementation of provisions adopted for that purpose should be closely monitored by local and federal authorities, including the judicial authorities, in order to prevent and clarify any misunderstanding of such provisions. It invites the State party to report to it fully on this question in its next report by specifying to what extent indigenous peoples have been consulted during this process. In this connection, the attention of the State party is drawn to the Committee's General Recommendation XXIII on indigenous peoples.

554. The Committee recommends that the State party's fifteenth report should include information on the number and situation of refugees and immigrants in Argentina and on the legal regime applicable to them.

555. Recalling its decision No. 3 (45) of 16 August 1994, the Committee invites the State party to take all measures within its power to expedite the ongoing proceedings in connection with the 1992 and 1994 anti-Semitic attacks and draws its attention to articles 5 (a) and 6 of the Convention in this regard.

556. With regard to article 6 of the Convention, the Committee recommends that the next periodic report of Argentina should contain detailed information on remedies filed, rulings handed down and compensation awarded for acts of racism.

557. In connection with the implementation of article 7 of the Convention, the Committee recommends that the State party should take all necessary measures to

guarantee the training and education of law enforcement officials, teachers and students in human rights and in the prevention of racial discrimination.

558. The Committee recommends that the eleventh to fourteenth reports of the State party and the present concluding observations should be made public and be widely disseminated to the population.

559. The Committee recommends that the State party should, as soon as possible, ratify the amendments to article 8, paragraph 6, of the Convention, which were adopted at the Fourteenth Meeting of States Parties.

560. It notes that the State party has not made the declaration provided for in article 14 of the Convention and that some members of the Committee have requested that Argentina consider the possibility of making that declaration.

561. The Committee recommends that the State party's next report, due on 5 January 1998, should be an update dealing with all the issues raised in the present observations.

Burundi

562. At its 1238th and 1239th meetings, held on 19 and 20 August 1997, the Committee considered the seventh to tenth periodic reports of Burundi (CERD/C/295/Add.1), and at its 1242nd meeting, held on 21 August 1997, adopted the following concluding observations.

A. Introduction

563. The Committee welcomes the resumption of the dialogue with the State party and the presence of a delegation from the capital to present the report. While noting that the report fails to provide concrete information on the implementation of the Convention in Burundi, the Committee expresses its satisfaction to the delegation for answering the many questions raised by members of the Committee during the course of the dialogue.

B. Factors and difficulties impeding the implementation of the Convention

564. The Committee recognizes that Burundi is facing many difficulties that have an impact on the implementation of the Convention. In this regard, the Committee refers in particular to the violent ethnic conflict in the States of the Great Lakes region, including Burundi; the civil conflict plaguing the country; the massive displacements of populations and flows of refugees within the region, as well as the numerous internally displaced persons; the political instability; and the very difficult economic and social situation, aggravated by the imposition of an economic embargo against the State party since 31 July 1996.

C. Positive aspects

565. The Committee warmly appreciates the efforts of the State party to submit and present its report under adverse circumstances. The Committee welcomes the declared willingness of the State party to restore peace and security in Burundi

through political dialogue, to be held in September 1997 in the United Republic of Tanzania, which could, hopeful, produce a government satisfactory to all parties. The declared policy of the Government to end impunity for perpetrators of human rights violations is also welcomed by the Committee.

566. The establishment of a ministry responsible for human rights and of a national centre for human rights is welcomed. The fact that the Government encourages the establishment of independent leagues and associations for the promotion and protection of human rights is viewed as a positive factor.

567. The fact that the Penal Code, in its article 180, penalizes racial or ethnic discrimination and hatred, and that the Political Parties Act prohibits discrimination based on ethnic grounds and makes it an offence under its articles 5 and 63, respectively, is noted with satisfaction.

568. Note is taken with appreciation of the oral invitation to send members of the Committee into Burundi to assess the situation with respect of the implementation of the Convention in practice. This is viewed as a constructive means of pursuing the dialogue with the State party and shows the latter's willingness to improve implementation of provisions of the Convention.

D. Principal subjects of concern

569. The main concern of the Committee is with the continuation of acts of violence and killings between people of different ethnic background in Burundi.

570. The understanding of the notions of "race" and "ethnic origin" by the State party, as expressed in paragraphs 5, 6 and 23 of the report, and reiterated by the delegation in its oral statement, is a matter of concern. The Committee emphasizes that article 1, paragraph 1, of the Convention defines as racial discrimination any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has either the purpose or the effect of nullifying or impairing the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis in the political, social, cultural or any other field of public life. Moreover, the attention of the State party is called to the Committee's General Recommendation VIII, which provides that the identification of individuals as members of a particular racial or ethnic group shall be based upon self-identification by the individual himself. In the present case, it is believed that an important part of the population of the State party identifies itself as being member of one of the three ethnic groups living in the country, either the Tutsis, the Hutus or the Twas, and that important parts of the population are living in conditions which do not guarantee the exercise of human rights under equal terms.

571. It is regretted that concerns expressed and recommendations made by the Committee in its concluding observations of 17 March 1994, and in its decision 1 (47) of 1995 and resolution 1 (49) of 1996 on the situation in Burundi, adopted under the Committee's agenda item on prevention of racial discrimination, including early warning and urgent procedures, have not been addressed in the present report.

572. It is regretted that the status of Decree-Law No. 1/001 of 13 September 1996, which regulates the transitional institutional system and the current powers and activities of the National Assembly, as well as the functions and powers of the National Centre for Human Rights and the Abashingantahe Council, has not been fully clarified.

573. The insufficiency of information in the report in connection with article 3 of the Convention is regretted. In this respect, the Committee calls the attention of the State party to its General Recommendation XIX.

574. The Committee expresses concern over reports of delays in the process of prosecuting those responsible for the assassination of President Ndadaye. It is equally concerned over the slow process of prosecuting and punishing perpetrators of mass killings and disappearances. The delays cast doubts on the effective implementation of the Government's policy of ending the pattern of impunity.

575. It is noted with concern that no specific legislation has been adopted to fully implement the provisions of article 4 of the Convention and that no information was provided in the report on the implementation of that article in practice.

576. The lack of information on the enjoyment by the various groups within the population of all the rights laid down in article 5 of the Convention is regretted, all the more so since numerous reports make reference to discrimination against the Hutus and the Twas in the enjoyment of certain rights, such as the rights incorporated in article 5 (a), (b), (d) (i), (e) (i), (iv), (v), and (f) of the Convention.

577. The insufficiency of information received on regroupment camps in general and, in particular, on the ethnic composition of the people in the camps and the situation and conditions of life prevailing therein, is regretted. Concern is expressed over reports that people, mostly of Hutu origin, are forced by the police to leave their homes and settle in regroupment camps, which are kept under the control of the army, in violation of article 5 (d) (i) of the Convention.

578. While the statement made by the delegation that an appeal was sent to Burundi refugees in neighbouring countries to return to Burundi is welcomed, the lack of information on measures taken to ensure their repatriation and their safe return is regretted. Similarly, the lack of information on the situation of refugees living in Burundi is regretted, all the more so since reports state that their right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual or group or institution, under article 5 (b) of the Convention, is not always guaranteed.

579. With respect to article 6 of the Convention, concern is expressed over the lack of legislative provisions to implement the right to just and adequate reparation or satisfaction for any damage suffered as a result of acts of racial discrimination. Moreover, the absence of complaints against acts of racial discrimination raises doubts as to the extent of the publicity given to, and the effectiveness of, available remedies for victims of racial discrimination.

580. In connection with article 7 of the Convention, while the statements of policy and the programmes launched by ministerial departments cited in the report are welcomed, the lack of information on concrete steps undertaken to comply with its provisions is regretted.

E. Suggestions and recommendations

581. The Committee recommends that the next periodic report provide information on the representation of members of the Tutsi, Hutu and Twa ethnic groups in the government, the administration, the judiciary, the police and the army. It further recommends that the Government, while restructuring the country, take into consideration the Committee's concluding observations of 17 March 1994, its decision 1 (47) of 1995 and its resolution 1 (49) of 1996.

582. The Committee also recommends that information be provided by the State party in its next periodic report on the place of Decree-Law No. 1/001/96 within the domestic legal order and on the situation with respect to the current powers and activities of the National Assembly, as well as on the respective powers and functions of the National Centre for Human Rights and the Abashingantahe Council.

583. In connection with the implementation of article 3 of the Convention, the Committee recommends that, in the light of its General Recommendation XIX, comprehensive information be provided by the State party in its next periodic report on measures taken to prevent, prohibit and eradicate all practices of racial segregation in Burundi.

584. The Committee urges the Government to further its efforts to bring to an end the impunity of the perpetrators of human rights violations and to accelerate the procedures currently under way. In this respect, the Committee emphasizes the need for the investigation, prosecution and punishment of those found guilty of such crimes, in order to restore confidence in the rule of law and as an indication that their recurrence will not be tolerated by the authorities.

585. The Committee reaffirms that the provisions of article 4 of the Convention are mandatory, as stated in its General Recommendation VII (32). The Committee stresses in this regard that the State party should fulfil all its obligations under this article and that, in doing so, it take fully into account its General Recommendation XV (42).

586. The Committee recommends that action be taken at the legislative, administrative and judicial levels to protect the right of everyone, without discrimination, to enjoy their right under article 5 of the Convention, especially the right to equal treatment before the courts and all other organs administering justice; to security of person and protection by the State against violence or bodily harm; to freedom of movement and residence within the borders of the State; to work; to public health and medical care; and to education and training; and the right of access to any place or service intended for use by the general public. It further recommends that comprehensive information on the implementation of articles be provided in the State party's next periodic report.

587. Further information on the situation prevailing in the regroupment camps, as well as on the ethnic composition of people settled therein and the possibility for the latter to freely leave or settle in the camps, is requested.

588. The Committee also requests information in the next periodic report on measures taken to ensure the safe repatriation of refugees to Burundi and to protect from violence refugees living within Burundi.

589. The Committee recommends that the State party ensure protection against any acts of racial discrimination through the competent courts, in accordance with article 6 of the Convention, by, inter alia, strengthening the court system, the independence of the judiciary and the confidence of the population therein. It further recommends that the right to seek just and adequate reparation for victims of acts of racial discrimination be guaranteed in law and practice.

590. In connection with the implementation of article 7 of the Convention, the Committee recommends that all necessary measures be taken to provide training and education of law enforcement officers, civil servants, magistrates and lawyers, as well as teachers and students, at all levels of education, in the field of human rights and prevention of racial discrimination.

591. The Committee, being aware that the resolution of the ethnic conflict in Burundi cannot be achieved without a resolution of the conflict in the Great Lakes region, urges the Burundi authorities to take all necessary measures, in cooperation with neighbouring countries, to find ways and means to restore peace and security in Burundi.

592. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

593. The Committee recommends that the State party's next periodic report, due on 26 November 1998, be a comprehensive report and that it address all the points raised in the present observations.

Norway

594. At its 1232nd and 1233rd meetings, held on 13 and 14 August 1997, the Committee considered the twelfth and thirteenth periodic reports submitted in one document (CERD/C/281/Add.2) and the fourteenth periodic report (CERD/C/320/Add.1) of Norway and at its 1242nd meeting, held on 21 August 1997, adopted the following concluding observations:

A. Introduction

595. The Committee welcomes the reports presented by the Government of Norway, which follow the guidelines and contain comprehensive, frank and self-critical information about changes and developments that have occurred since the consideration of the previous periodic report. The Committee also welcomes the detailed answers to questions raised and concerns expressed during the consideration of the reports. It expresses its appreciation for the constructive dialogue with the delegation and for the answers given to the questions raised by members. The Committee notes also with appreciation that the State party has made the declaration under article 14 of the Convention and has ratified the amendment concerning article 8, paragraph 6.

B. Positive aspects

596. The overall efforts undertaken and innovative measures adopted by the State party to prevent and combat all forms of racial discrimination are welcomed. In this regard, the recent establishment of a working group which has a mandate to

improve legal aid available to victims of racial discrimination is noted. The possibility of including resident foreigners in a jury is also noted.

597. The adoption by the State party of the Plan of Action to Tackle Acute Situations of Racial Violence and Harassment in a Local Community is also welcomed.

598. The efforts undertaken by the State party to protect the culture, language and way of life of minorities are welcomed. In this regard, the establishment and work of the Sami Assembly is perceived as a positive development.

599. The White Paper on Immigration and a Multicultural Norway, issued by the State party in February 1997, is welcomed as a policy framework for the State party developing into a multicultural society. The right of foreigners to participate in local and regional elections is also welcomed. Further, the work undertaken during the period under review by the Interdisciplinary Advisory Group on Community relations is favourably noted.

600. The amendment of section 292 of the Penal Code by the Act of 7 April 1995, adding racial motivation as an aggravating circumstance when an act of vandalism has been committed, is welcomed.

601. The teaching programme "Norway as a multicultural society" launched by the State party in 1992 is noted. The fact that this training has targeted the police, journalists, teachers, customs officers and health and social workers is regarded positively.

602. The long-standing effort undertaken by the State party to give access to education to immigrant and minority groups in appropriate languages is regarded as a positive factor. Further, the efforts undertaken by the authorities to translate, when necessary, public information into the diverse languages spoken by minority members and immigrants are also welcomed.

603. Cooperation between the State party and non-governmental organizations is noted, as well as the fact that the State party has consulted some non-governmental organization during the drafting of the State party's report.

C. Principal subjects of concern

604. While acknowledging the Constitutional amendment of 15 July 1994, and despite additional information provided by the State party both in oral and written form, concern is expressed regarding the extent to which the International Convention on the Elimination of All Forms of Discrimination is self-executing in domestic law.

605. While noting that the number of complaints concerning racially motivated offences has fallen, concern is expressed that the reasons for this trend are not yet known. Concern is also expressed over allegations that the police are reluctant to institute criminal proceedings in some cases involving racial discrimination. The absence of a sufficiently complete official record of incidents of a racial character in Norway is also a source of concern.

606. Concern is expressed that the State party has not taken all appropriate measures to prohibit organizations which promote and incite racial discrimination, in accordance with article 4 (b) of the Convention. The fact

that a Norwegian political party promotes racial discrimination is a source of serious concern.

607. Concern is expressed over the publications of anti-immigrant racist organizations and over the fact that a radio station is systematically disseminating ideas of racial superiority. The view expressed openly by the leader of the above-mentioned political party that the Sami parliament should be dissolved is also a matter of concern.

608. Concern is expressed that foreigners and persons belonging to minority groups may not be sufficiently protected, especially in the field of labour and housing.

609. The Committee expresses concern that the State party's health services allege that immigrants of African descent disproportionately test positive for HIV and that Africans have been obliged to undergo tests for HIV simply because they are Africans.

610. Reports of the unjustified deportation of foreign nationals, including in some cases asylum seekers and unaccompanied children, are a matter of concern.

D. Suggestions and recommendations

611. The Committee requests the State party to clarify in its next periodic report the status of the Convention in domestic law. It would welcome in next report examples, if any exist, of court decisions illustrating how the Convention is applied in domestic law.

612. The Committee suggests that the competent Norwegian authorities maintain a comprehensive record of all racist acts or incidents, and it recommends that they take the necessary measures to facilitate and ensure criminal proceedings whenever appropriate.

613. The Committee recommends that the State party take all appropriate measures to prohibit all racist organizations, in conformity with article 4 (b) of the Convention.

614. The Committee recommends that the State party take the necessary measures to prohibit all dissemination of racist propaganda.

615. The Committee recommends that the State party continue to strengthen its efforts to promote understanding and tolerance with regard to immigrants in Norway.

616. The Committee recommends that the State party take all appropriate measures to ensure access to work and housing on a non-discriminatory basis, in conformity with the Convention.

617. The Committee recommends that the State party ensure the wide dissemination of its report and of the concluding observations of the Committee.

618. The Committee recommends that the State party's next periodic report, due on 5 September 1999, be an updating report and address all the concerns expressed by the Committee.

Burkina Faso

619. At its 1236th and 1237th meetings, held on 18 and 19 August 1997, the Committee considered the sixth to eleventh periodic reports of Burkina Faso, submitted as one document (CERD/C/279/Add.2), and at its 1242nd meeting, held on 21 August 1997, adopted the following concluding observations.

A. Introduction

620. The Committee welcomes the presentation of the State party's report and the presence of its delegation and appreciates the opportunity to resume the dialogue with the State party. The Committee regrets, however, that the report did not follow the guidelines established by the Committee for the presentation of reports and that it lacked concrete information on the practical implementation of the Convention or on laws bearing on issues concerning the Convention. The Committee appreciates the delegation's oral presentation, which substantially supplemented the written report.

B. Factors and difficulties impeding the implementation of the Convention

621. It is noted that the country's difficult economic situation may affect the full implementation of the Convention in Burkina Faso.

C. Positive aspects

622. The spirit of tolerance in Burkina Faso, the State party's active policy of equality and non-discrimination and the process of democratization embarked upon since the last report are commended.

623. It is noted with satisfaction that the Convention has superior authority over national legislation and can be directly invoked before the courts.

624. It is noted with appreciation that the prohibition of discrimination on any ground, in particular race, ethnic origin, colour, religion and caste, is contained in the Constitution, which makes it an excellent basis for the implementation of the Convention in Burkina Faso.

625. The recent enactment of provisions in the Criminal Code to make racial discrimination a criminal offence is welcomed.

626. The measures taken by the State party to favour the use of and instruction in national languages in education, as well as in the media, are also welcomed.

627. The establishment of the office of Mediator, to consider complaints by any individual against arbitrary acts of the administration, is appreciated.

D. Principal subjects of concern

628. Concern is expressed over the lack of legal provisions required in order to fully implement the State party's obligations under article 4 of the Convention.

629. The lack of data on the demographic composition of the population and on the representation of ethnic groups at various levels of public life is regretted.

630. Concern is expressed over the absence of data on the enjoyment of economic, social and cultural rights by different sections of the population and their access to projects and programmes of development in different fields.

E. Suggestions and recommendations

631. The Committee wishes to receive more precise information about the provisions of article 132 of the Criminal Code and of Law 10/92/ADP of 15 December 1992 concerning freedom of association, and in particular whether and how the law provides for the prohibition of all acts of racial discrimination and of organizations which promote racial discrimination.

632. The Committee requests the State party to provide in its next report information in accordance with paragraph 8 of the reporting guidelines on the composition of the population and on the representation of ethnic groups at various levels of public life, as well as on their enjoyment of economic, social and cultural rights.

633. More information is also requested with regard to the progress made in the promotion of national languages and the education of all the population.

634. The Committee also requests information on the powers and functioning of the institution of Mediator and other institutions promoting respect for human rights and multicultural and multi-ethnic understanding.

635. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

636. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee requested that the possibility of such a declaration be considered.

637. The Committee recommends that the State party's next periodic report, due on 17 August 1999, be a comprehensive report and that it address all the points raised in the present observations.

IV. CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 14 OF THE CONVENTION

638. Under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, individuals or groups of individuals who claim that any of their rights enumerated in the Convention have been violated by a State party and who have exhausted all available domestic remedies may submit written communications to the Committee on the Elimination of Racial Discrimination for consideration. A list of States parties which have recognized the competence of the Committee to consider such communications can be found in annex I.B.

639. Consideration of communications under article 14 of the Convention takes place in closed meetings (rule 88 of the Committee's rules of procedure). All documents pertaining to the work of the Committee under article 14 (submissions from the parties and other working documents of the Committee) are confidential.

640. The Committee began its work under article 14 of the Convention at its thirtieth session, in 1984. At its thirty-sixth session (August 1988), the Committee adopted its Opinion on communication No. 1/1984 (Yilmaz-Dogan v. the Netherlands).[11] At its thirty-ninth session, on 18 March 1991, the Committee adopted its Opinion on communication No. 2/1989 (Demba Talibe Diop v. France).[12] At its forty-second session, on 16 March 1993, the Committee, acting under rule 94, paragraph 7, of its rules of procedure, declared admissible and adopted its Opinion on communication No. 4/1991 (L. K. v. the Netherlands).[13] At its forty-fourth session, on 15 March 1994, the Committee adopted its Opinion on communication No. 3/1991 (Michel L. N. Narrainen v. Norway).[14] During its forty-sixth session (March 1995), the Committee declared inadmissible communication No. 5/1994 (C. P. v. Denmark).[15] At its fifty-first session (August 1997), the Committee declared inadmissible communication No. 7/1995 (Barbaro v. Australia) (see annex III). A summary of the Committee's decision in this case is reproduced below. Communications Nos. 6/1995 and 8/1996 were declared admissible during the fifty-first session and were transmitted to the State party concerned for comments on the merits.

641. Under article 14, paragraph 8, of the Convention, the Committee shall include in its annual report a summary of the communications considered by it and of the explanations and statements of the States parties concerned, together with the Committee's own suggestions and recommendations thereon. This reporting stage had not been reached in respect of communications Nos. 9/1997 and 10/1997, which were placed before the Committee at its fiftieth and fifty-first sessions, respectively, and transmitted to the States parties concerned under rule 92 of the Committee's rules of procedure.

642. On 14 August 1997, the Committee declared inadmissible communication No. 7/1995 (Paul Barbaro v. Australia). The case concerned an Australian citizen of Italian origin whose employment at the Casino of Adelaide, South Australia, had been terminated because the Casino's supervisory authorities had concluded, after vetting the author's background and finding that some of his relatives had criminal records, that the author's continued employment in the Casino constituted a threat to the institution's operations. The author contended that since he was unaware of the criminal activities of his relatives, the Casino's decision amounted to discriminatory treatment of Italians who are not themselves criminals but who may have relatives who are.

643. The State party argued that the author's allegations were inadmissible both on the ground of incompatibility with the provisions of the Convention, as the Human Rights and Equal Opportunity Commission had fully reviewed the authorities' decision to terminate the author's employment, and because of non-exhaustion of domestic remedies, as the author could have filed a further appeal against the Commission's decision under the Administrative Decisions (Judicial Review) Act, and the decision of the casino authorities pursuant to the Rules of the Supreme Court of South Australia.

644. The Committee noted that the author had been legally represented during the hearing before the Casino authorities on 30 April 1987. It would have been incumbent upon his representative to inform him of possible avenues of appeal after the authorities' decision to terminate his employment. That Mr. Barbaro was not informed of potential judicial remedies by the judicial authorities of South Australia did not absolve him from seeking to pursue avenues of judicial redress. The Committee further did not consider that a judgment of the Supreme Court of South Australia in a similar, previous, case was necessarily dispositive of the author's own claims: the existence of a single judgment, while delivered on issues similar to those in the author's own case, did not absolve Mr. Barbaro from attempting to avail himself of the remedy available under the Rules of the Supreme Court of South Australia. The Committee accordingly concluded that the author had failed to meet the requirements of article 14, paragraph 7 (a), of the Convention.

V. CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES AND TO ALL OTHER TERRITORIES WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

645. Under article 15 of the Convention, the Committee is empowered to consider copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, transmitted to it by the competent bodies of the United Nations, and to submit to them and to the General Assembly its expressions of opinion and recommendations relating to the principles and objectives of the Convention in those territories.

646. At its 1996 session, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples continued to follow the work of the Committee on the Elimination of Racial Discrimination. The Special Committee also continued to monitor related developments in the Territories, having regard to the relevant provisions of article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination.[16]

647. As a result of earlier decisions of the Trusteeship Council and the Special Committee, the Secretary-General transmitted to the Committee at its fiftieth session the documents listed in annex IV to the present report.

648. At its 1242nd meeting, on 21 August 1997, the Committee decided to take note of the relevant documentation and information submitted to it under article 15 of the Convention and to make the following observations:

> "The Committee once again finds it impossible to fulfil its functions under article 15, paragraph 2 (a), of the Convention, owing to the total absence of any copies of petitions as provided therein. The Committee reiterates its request that it be furnished with the material expressly referred to in article 15 of the Convention so that it will be able to fulfil its functions."

VI. ACTION BY THE GENERAL ASSEMBLY AT ITS FIFTY-FIRST SESSION

649. The Committee considered at both its fiftieth and fifty-first sessions its agenda item on action by the General Assembly at its fifty-first session. At its fiftieth session, the Committee considered the note by the Secretary-General transmitting to the General Assembly the report of the seventh meeting of persons chairing the human rights treaty bodies (A/51/482), with respect to effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights.

650. At its fifty-first session, the Committee considered the following subjects under this item: (a) the annual report of the Committee submitted to the General Assembly at its fifty-first session; and (b) the effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights. For its consideration of the item, the Committee had before it the following documents: (a) General Assembly resolution 51/80 of 12 December 1996, on the International Convention on the Elimination of All Forms of Racial Discrimination; (b) summary records of the Third Committee of the General Assembly (see A/C.3/51/SR.35); and (c) note by the Secretary-General transmitting to the Commission on Human Rights the report by the independent expert, Mr. Philip Alston, on the effective functioning of bodies established pursuant to United Nations human rights instruments (E/CN.4/1997/74).

A. Annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention

651. The Committee noted that the General Assembly had commended its working methods, including its procedure for reviewing the implementation of the Convention in States whose initial and periodic reports are overdue and the formulating of concluding observations on reports of States parties to the Convention. It was a particular source of satisfaction that the General Assembly had observed that the Committee's efforts to continue to improve its working methods had enabled it to reduce the delay in the consideration of reports submitted. The Committee welcomed the fact that its contribution to the prevention of racial discrimination, including early warning measures and urgent procedures, had also been commended by the General Assembly in resolution 51/80.

652. The Committee welcomed the General Assembly's encouragement to States which had not yet done so to ratify the Convention, as well as its request to States parties to accelerate their domestic ratification procedures with regard to the amendments to article 8, paragraph 6, of the Convention, concerning the financing of the Committee.

B. Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

Action at the fiftieth session

653. At its fiftieth session, the Committee considered the note by the Secretary-General transmitting to the General Assembly the report of the seventh meeting of persons chairing human rights treaty bodies (A/51/482), with respect

to effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights.

654. The Committee took note of the recommendations of the report of the seventh meeting of persons chairing human rights treaty bodies. It indicated that it would follow with interest Secretariat action with respect to the these recommendations. With respect to recommendations which requested action by individual treaty bodies, the Committee adopted the following measures:

(a) The Committee submitted a letter to the Chairman of the Subcommission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1997/31) which indicated recommended topics for study by the Subcommission (see A/51/482, para. 53), such as reservations to treaties, the concept of race, affirmative action, and the rights of non-citizens;

(b) Committee members indicated individually whether they desired to have their addresses made available to the public to facilitate communication with non-governmental organizations (ibid., para. 39);

(c) The Chairman began a practice of having a separate briefing with non-governmental organizations towards the end of each session; briefings were held at both the fiftieth and the fifty-first session.

Action at the fifty-first session

655. At its 1234th meeting, the Committee noted that its competence and functions have been established by the International Convention on the Elimination of All Forms of Racial Discrimination, to which 148 States (80 per cent of United Nations Member States) are parties. It is distinctive among treaty bodies in exercising four functions (examination of reports, preventive procedures, reviews when reports are overdue, and the issuance of opinions on individual communications). It is also distinctive in that its reporting cycle (of two years) is specified in the Convention and could be altered only by amending the Convention.

656. The Committee also noted that reports under article 9 were normally considered within six months of receipt unless the State party requested deferment. This is the only reliable criterion for assessing the efficiency with which the Committee fulfils its role in the reporting process. The Committee further noted that during the previous six years it had modified its methods of work to enable it to consider a greater number of reports within a session while exercising its other three functions.

657. The Committee identified further changes that would enable it to cope with the increasing pressure of work, but warned that a corresponding increase in Secretariat support would be needed. The Committee discussed changes to the format and content of its concluding observations which would reduce the reporting burden on States and improve its dialogue with them. It would encourage States to submit comments on its concluding observations for inclusion in its annual report to the General Assembly, as was done in the case of India (see the Committee's 1996 report,[4] annex IX); this is provided for in article 9.2 of the Convention.

658. If States parties wish to submit their article 9.1 reports as separate sections of a consolidated report covering all their human rights treaty reporting obligations, this would not cause any concern in the Committee if it

involved no decline in the standard of reporting and the two-year reporting obligation was not called into question. However, if the Committee, as established under article 8.1 of the Convention, were to be combined with some other monitoring body, that might well result in a decline in the quality of the examination of reports and in the processes for ensuring implementation of the Convention.

659. In accordance with article 9 of the Convention, the Committee submits its annual report to the General Assembly, which has consistently supported the Committee and encouraged it in developing its methods of work.

660. The Committee recalled the complaints voiced at the 1993 World Conference on Human Rights that the United Nations was stirred into action only after massive human rights abuses had taken place. The treaty bodies are unique in being able to exercise a preventive function, sounding early warnings and recommending urgent action. Since so many of the conflicts that had occasioned gross losses of human life had an ethnic dimension, the Committee's duties in this connection were paramount. Here too, improved Secretariat support and follow-up measures were vital.

661. In the course of the discussion, it was noted that the Committee's work and that of the Subcommission on Prevention of Discrimination and Protection of Minorities and of the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance essentially serve the same purpose in many ways. The Committee noted with concern that the Special Rapporteur appears completely to overlook the relevance of the International Convention on the Elimination of All Forms of Racial Discrimination and the work of the Committee. Also, the Committee had recommended in earlier years that its Chairman should be invited to address the Third Committee when that body considers the Committee's report. Some better method by which the Committee could communicate its concerns and problems to the General Assembly and to the meetings of States parties was needed. The Committee expressed regret that little was done by States parties to secure better compliance with treaty obligations, in particular the timely submission of reports.

VII. SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

A. Reports received by the Committee

662. At its thirty-eighth session in 1988, the Committee decided to accept the proposal of the States parties that States parties submit a comprehensive report every four years and a brief updating report in the two-year interim. Table 1 lists reports received from 26 August 1996 to 22 August 1997.

Table 1. Reports received during the period under review (26 August 1996 to 22 August 1997)

State party	Type of report	Date on which the report was due	Document number
Argentina	Eleventh report	4 January 1990	CERD/C/299/Add.11
	Twelfth report	4 January 1992	
	Thirteenth report	4 January 1994	
	Fourteenth report	4 January 1996	
Armenia	Initial report	23 July 1994	CERD/C/289/Add.2
	Second report	23 July 1996	
Burkina Faso	Sixth report	17 August 1985	CERD/C/279/Add.2
	Seventh report	17 August 1987	
	Eighth report	17 August 1989	
	Ninth report	17 August 1991	
	Tenth report	17 August 1993	
	Eleventh report	17 August 1995	
Burundi	Seventh report	26 November 1990	CERD/C/295/Add.1
	Eighth report	26 November 1992	
	Ninth report	26 November 1994	
	Tenth report	26 November 1996	
Cambodia	Second report	28 December 1986	CERD/C/292/Add.2
	Third report	28 December 1988	
	Fourth report	28 December 1990	
	Fifth report	28 December 1992	
	Sixth report	28 December 1994	
	Seventh report	28 December 1996	
Cameroon	Tenth report	24 July 1990	CERD/C/298/Add.3
	Eleventh report	24 July 1992	
	Twelfth report	24 July 1994	
	Thirteenth report	24 July 1996	
Cuba	Tenth report	16 March 1991	CERD/C/319/Add.4
	Eleventh report	16 March 1993	
	Twelfth report	16 March 1995	
	Thirteenth report	16 March 1997	
Czech Republic	Initial report	1 January 1994	CERD/C/289/Add.1
	Second report	1 January 1996	

State party	Type of report	Date on which the report was due	Document number
Denmark	Thirteenth report	8 January 1997	CERD/C/319/Add.1
Israel	Seventh report	2 February 1992	CERD/C/294/Add.1
	Eighth report	2 February 1994	
	Ninth report	2 February 1996	
Kuwait	Thirteenth report	4 January 1994	CERD/C/299/Add.16
	Fourteenth report	4 January 1996	
Lebanon	Sixth report	12 December 1982	CERD/C/298/Add.2
	Seventh report	12 December 1984	
	Eighth report	12 December 1986	
	Ninth report	12 December 1988	
	Tenth report	12 December 1990	
	Eleventh report	12 December 1992	
	Twelfth report	12 December 1994	
	Thirteenth report	12 December 1996	
Libyan Arab Jamahiriya	Eleventh report	4 January 1990	CERD/C/299/Add.3
	Twelfth report	4 January 1992	
	Thirteenth report	4 January 1994	
	Fourteenth report	4 January 1996	
Nepal	Ninth report	1 March 1988	CERD/C/298/Add.1
	Tenth report	1 March 1990	
	Eleventh report	1 March 1992	
	Twelfth report	1 March 1994	
	Thirteenth report	1 March 1996	
Netherlands	Tenth report	9 January 1991	CERD/C/319/Add.2
	Eleventh report	9 January 1993	
	Twelfth report	9 January 1995	
	Thirteenth report	9 January 1997	
Niger	Eleventh report	4 January 1990	CERD/C/299/Add.18
	Twelfth report	4 January 1992	
	Thirteenth report	4 January 1994	
	Fourteenth report	4 January 1996	
Norway	Twelfth report	5 September 1993	CERD/C/281/Add.2
	Thirteenth report	5 September 1995	
	Fourteenth report	5 September 1997	CERD/C/320/Add.1
Philippines	Eleventh report	4 January 1990	CERD/C/299/Add.2
	Twelfth report	4 January 1992	
	Thirteenth report	4 January 1994	
	Fourteenth report	4 January 1996	
Poland	Thirteenth report	4 January 1994	CERD/C/299/Add.10
	Fourteenth report	4 January 1996	
Russian Federation	Fourteenth report	6 March 1996	CERD/C/299/Add.15

State party	Type of report	Date on which the report was due	Document number
Sweden	Twelfth report	5 January 1995	CERD/C/280/Add.4
Switzerland	Initial report	29 December 1995	CERD/C/270/Add.1
The former Yugoslav Republic of Macedonia	Initial report Second report Third report	17 September 1992 17 September 1994 17 September 1996	CERD/C/270/Add.2
Tonga	Eleventh report Twelfth report Thirteenth report	17 March 1993 17 March 1995 17 March 1997	CERD/C/319/Add.3
Ukraine	Thirteenth report Fourteenth report	6 April 1994 6 April 1996	CERD/C/299/Add.14
Yugoslavia	Eleventh report Twelfth report Thirteenth report Fourteenth report	4 January 1990 4 January 1992 4 January 1994 4 January 1996	

B. Reports not yet received by the Committee

663. Table 2 lists reports which were due before the end of the fifty-first session but which have not yet been received.

Table 2. Reports due before the closing date of the fifty-first session (22 August 1997) but which have not yet been received

State party	Type of report	Date on which the report was due	Number of reminders sent
Afghanistan	Second report	5 August 1986	7
	Third report	5 August 1988	5
	Fourth report	5 August 1990	5
	Fifth report	5 August 1992	2
	Sixth report	5 August 1994	1
	Seventh report	5 August 1996	1
Albania	Initial report	10 June 1995	1
	Second report	10 June 1997	-
Algeria	Thirteenth report	15 March 1997	-
Antigua and Barbuda	Initial report	24 November 1989	2
	Second report	24 November 1991	2
	Third report	24 November 1993	1
	Fourth report	24 November 1995	1
Australia	Tenth report	30 October 1994	1
	Eleventh report	30 October 1996	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Austria	Eleventh report	8 June 1993	1
	Twelfth report	8 June 1995	1
	Thirteenth report	8 June 1997	-
Bahamas	Fifth report	4 September 1984	9
	Sixth report	4 September 1986	5
	Seventh report	4 September 1988	3
	Eighth report	4 September 1990	3
	Ninth report	4 September 1992	2
	Tenth report	4 September 1994	1
	Eleventh report	4 September 1996	1
Bahrain	Initial report	26 April 1991	1
	Second report	26 April 1993	1
	Third report	26 April 1995	1
	Fourth report	26 April 1997	-
Bangladesh	Seventh report	11 July 1992	1
	Eighth report	11 July 1994	1
	Ninth report	11 July 1996	1
Barbados	Eighth report	8 December 1987	5
	Ninth report	8 December 1989	5
	Tenth report	8 December 1991	2
	Eleventh report	8 December 1993	1
	Twelfth report	8 December 1995	1
Belgium	Eleventh report	6 September 1996	-
Bosnia and Herzegovina[a]	Initial report	16 July 1994	1
	Second report	16 July 1996	1
Botswana	Sixth report	22 March 1985	9
	Seventh report	22 March 1987	6
	Eighth report	22 March 1989	4
	Ninth report	22 March 1991	3
	Tenth report	22 March 1993	1
	Eleventh report	22 March 1995	1
	Twelfth report	22 March 1997	-
Brazil	Fourteenth report	4 January 1996	1
Canada	Thirteenth report	13 November 1995	1
Cape Verde	Third report	2 November 1984	9
	Fourth report	2 November 1986	6
	Fifth report	2 November 1988	4
	Sixth report	2 November 1990	3
	Seventh report	2 November 1992	1
	Eighth report	2 November 1994	1
	Ninth report	2 November 1996	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Central African Republic	Eighth report	15 April 1986	7
	Ninth report	15 April 1988	5
	Tenth report	15 April 1990	5
	Eleventh report	15 April 1992	2
	Twelfth report	15 April 1994	1
	Thirteenth report	15 April 1996	1
Chad	Tenth report	16 September 1996	1
Chile	Eleventh report	19 November 1992	1
	Twelfth report	19 November 1994	1
	Thirteenth report	19 November 1996	-
China	Eighth report	28 January 1997	-
Colombia	Eighth report	2 October 1996	1
Congo	Initial report	10 August 1989	2
	Second report	10 August 1991	2
	Third report	10 August 1993	1
	Fourth report	10 August 1995	1
	Fifth report	10 August 1997	-
Costa Rica	Twelfth report	4 January 1992	1
	Thirteenth report	4 January 1994	1
	Fourteenth report	4 January 1996	1
Côte d'Ivoire	Fifth report	3 February 1982	14
	Sixth report	3 February 1984	10
	Seventh report	3 February 1986	6
	Eighth report	3 February 1988	3
	Ninth report	3 February 1990	3
	Tenth report	3 February 1992	2
	Eleventh report	3 February 1994	1
	Twelfth report	3 February 1996	1
Croatia[b]	Initial report	8 October 1992	1
	Second report	8 October 1994	1
	Third report	8 October 1996	1
Cyprus	Fourteenth report	4 January 1996	1
Democratic Republic of the Congo	Eleventh report	21 May 1997	-
Dominican Republic	Fourth report	24 June 1990	2
	Fifth report	24 June 1992	2
	Sixth report	24 June 1994	1
	Seventh report	24 June 1996	1
Ecuador	Thirteenth report	4 January 1994	1
	Fourteenth report	4 January 1996	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Egypt	Thirteenth report	4 January 1994	1
	Fourteenth report	4 January 1996	1
El Salvador	Ninth report	30 December 1996	-
Estonia	Initial report	20 November 1992	1
	Second report	20 November 1994	1
	Third report	20 November 1996	-
Ethiopia	Seventh report	23 July 1989	2
	Eighth report	23 July 1991	2
	Ninth report	23 July 1993	1
	Tenth report	23 July 1995	1
	Eleventh report	23 July 1997	-
Fiji	Sixth report	11 January 1984	9
	Seventh report	11 January 1986	5
	Eighth report	11 January 1988	3
	Ninth report	11 January 1990	3
	Tenth report	11 January 1992	2
	Eleventh report	11 January 1994	1
	Twelfth report	11 January 1996	1
Finland	Thirteenth report	13 August 1995	1
	Fourteenth report	13 August 1997	-
France	Twelfth report	27 August 1994	1
	Thirteenth report	27 August 1996	1
Gabon	Second report	30 March 1983	11
	Third report	30 March 1985	7
	Fourth report	30 March 1987	4
	Fifth report	30 March 1989	3
	Sixth report	30 March 1991	2
	Seventh report	30 March 1993	1
	Eighth report	30 March 1995	1
	Ninth report	30 March 1997	-
Gambia	Second report	28 January 1982	14
	Third report	28 January 1984	10
	Fourth report	28 January 1986	6
	Fifth report	28 January 1988	3
	Sixth report	28 January 1990	3
	Seventh report	28 January 1992	2
	Eighth report	28 January 1994	1
	Ninth report	28 January 1996	1
Ghana	Twelfth report	4 January 1992	1
	Thirteenth report	4 January 1994	1
	Fourteenth report	4 January 1996	1
Greece	Twelfth report	18 July 1993	1
	Thirteenth report	18 July 1995	1
	Fourteenth report	18 July 1997	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Guinea	Second report	13 April 1980	17
	Third report	13 April 1982	13
	Fourth report	13 April 1984	9
	Fifth report	13 April 1986	4
	Sixth report	13 April 1988	3
	Seventh report	13 April 1990	3
	Eighth report	13 April 1992	2
	Ninth report	13 April 1994	1
	Tenth report	13 April 1996	1
Guyana	Initial report	17 March 1978	21
	Second report	17 March 1980	17
	Third report	17 March 1982	13
	Fourth report	17 March 1984	10
	Fifth report	17 March 1986	6
	Sixth report	17 March 1988	3
	Seventh report	17 March 1990	3
	Eighth report	17 March 1992	2
	Ninth report	17 March 1994	1
	Tenth report	17 March 1996	1
Haiti	Tenth report	18 January 1992	1
	Eleventh report	18 January 1994	1
	Twelfth report	18 January 1996	1
Holy See	Thirteenth report	31 May 1994	1
	Fourteenth report	31 May 1996	1
Hungary	Fourteenth report	4 January 1996	1
Iraq	Fourteenth report	13 February 1997	-
Iran (Islamic Republic of)	Thirteenth report	4 January 1994	1
	Fourteenth report	4 January 1996	1
Jamaica	Eighth report	4 July 1986	7
	Ninth report	4 July 1988	5
	Tenth report	4 July 1990	5
	Eleventh report	4 July 1992	2
	Twelfth report	4 July 1994	1
	Thirteenth report	4 July 1996	1
Japan	Initial report	14 January 1997	-
Jordan	Ninth report	29 June 1991	1
	Tenth report	29 June 1993	1
	Eleventh report	30 June 1995	1
	Twelfth report	30 June 1997	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Lao People's Democratic Republic	Sixth report	24 March 1985	8
	Seventh report	24 March 1987	5
	Eighth report	24 March 1989	4
	Ninth report	24 March 1991	2
	Tenth report	24 March 1993	1
	Eleventh report	24 March 1995	1
	Twelfth report	24 March 1997	-
Latvia	Initial report	14 May 1993	1
	Second report	14 May 1995	1
	Third report	14 May 1997	-
Lesotho	Seventh report	4 December 1984	9
	Eighth report	4 December 1986	6
	Ninth report	4 December 1988	4
	Tenth report	4 December 1990	3
	Eleventh report	4 December 1992	1
	Twelfth report	4 December 1994	1
	Thirteenth report	4 December 1996	-
Liberia	Initial report	5 December 1977	21
	Second report	5 December 1979	17
	Third report	5 December 1981	13
	Fourth report	5 December 1983	10
	Fifth report	5 December 1985	6
	Sixth report	5 December 1987	3
	Seventh report	5 December 1989	3
	Eighth report	5 December 1991	2
	Ninth report	5 December 1993	1
	Tenth report	5 December 1995	1
Luxembourg	Tenth report	31 May 1997	-
Madagascar	Tenth report	9 March 1988	5
	Eleventh report	9 March 1990	5
	Twelfth report	9 March 1992	2
	Thirteenth report	9 March 1994	1
	Fourteenth report	9 March 1996	1
Maldives	Fifth report	24 May 1993	1
	Sixth report	24 May 1995	1
	Seventh report	24 May 1997	-
Mali	Seventh report	15 August 1987	5
	Eighth report	15 August 1989	5
	Ninth report	15 August 1991	3
	Tenth report	15 August 1993	1
	Eleventh report	15 August 1995	1
	Twelfth report	15 August 1997	-
Malta	Thirteenth report	26 June 1996	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Mauritania	Initial report	12 January 1990	2
	Second report	12 January 1992	2
	Third report	12 January 1994	1
	Fourth report	12 January 1996	1
Mauritius	Thirteenth report	29 June 1997	-
Monaco	Initial report	27 October 1996	1
Mongolia	Eleventh report	5 September 1990	1
	Twelfth report	5 September 1992	1
	Thirteenth report	5 September 1994	1
	Fourteenth report	5 September 1996	1
Morocco	Twelfth report	17 January 1994	1
	Thirteenth report	17 January 1996	1
Mozambique	Second report	18 May 1986	7
	Third report	18 May 1988	5
	Fourth report	18 May 1990	5
	Fifth report	18 May 1992	2
	Sixth report	18 May 1994	1
	Seventh report	18 May 1996	1
New Zealand	Twelfth report	22 December 1995	1
Nicaragua	Tenth report	17 March 1997	-
Nigeria	Fourteenth report	4 January 1996	1
Papua New Guinea	Second report	26 February 1985	9
	Third report	26 February 1987	6
	Fourth report	26 February 1989	4
	Fifth report	26 February 1991	3
	Sixth report	26 February 1993	1
	Seventh report	26 February 1995	1
	Eighth report	26 February 1997	-
Peru	Twelfth report	29 October 1994	1
	Thirteenth report	29 October 1996	1
Portugal	Fifth report	23 September 1991	1
	Sixth report	23 September 1993	1
	Seventh report	23 September 1995	1
Qatar	Ninth report	21 August 1993	1
	Tenth report	21 August 1995	1
	Eleventh report	21 August 1997	-
Republic of Korea	Ninth report	4 January 1996	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Republic of Moldova	Initial report	25 February 1994	1
	Second report	25 February 1996	1
Romania	Twelfth report	15 October 1993	1
	Thirteenth report	15 October 1995	1
Rwanda	Eighth report	16 May 1990	2
	Ninth report	16 May 1992	2
	Tenth report	16 May 1994	1
	Eleventh report	16 May 1996	1
Saint Lucia	Initial report	16 March 1991	1
	Second report	16 March 1993	1
	Third report	16 March 1995	1
	Fourth report	16 March 1997	-
Saint Vincent and the Grenadines	Second report	9 December 1984	9
	Third report	9 December 1986	6
	Fourth report	9 December 1988	4
	Fifth report	9 December 1990	3
	Sixth report	9 December 1992	1
	Seventh report	9 December 1994	1
	Eighth report	9 December 1996	-
Senegal	Eleventh report	19 May 1993	1
	Twelfth report	19 May 1995	1
	Thirteenth report	19 May 1997	-
Seychelles	Sixth report	6 April 1989	2
	Seventh report	6 April 1991	2
	Eighth report	6 April 1993	1
	Ninth report	6 April 1995	1
	Tenth report	6 April 1997	-
Sierra Leone	Fourth report	4 January 1976	24
	Fifth report	4 January 1978	20
	Sixth report	4 January 1980	18
	Seventh report	4 January 1982	14
	Eighth report	4 January 1984	10
	Ninth report	4 January 1986	6
	Tenth report	4 January 1988	3
	Eleventh report	4 January 1990	3
	Twelfth report	4 January 1992	2
	Thirteenth report	4 January 1994	1
	Fourteenth report	4 January 1996	1
	Supplementary	31 March 1975	1
Slovakia	Initial report	28 May 1994	1
	Second report	28 May 1996	1
Slovenia	Initial report	6 July 1993	1
	Second report	6 July 1995	1
	Third report	6 July 1997	-

State party	Type of report	Date on which the report was due	Number of reminders sent
Solomon Islands	Second report	16 April 1985	9
	Third report	16 April 1987	6
	Fourth report	16 April 1989	4
	Fifth report	16 April 1991	3
	Sixth report	16 April 1993	1
	Seventh report	16 April 1995	1
	Eighth report	16 April 1997	-
Somalia	Fifth report	25 September 1984	9
	Sixth report	25 September 1986	6
	Seventh report	25 September 1988	4
	Eighth report	25 September 1990	3
	Ninth report	25 September 1992	1
	Tenth report	25 September 1994	1
	Eleventh report	25 September 1996	1
Spain	Fourteenth report	4 January 1996	1
Sri Lanka	Seventh report	20 March 1995	1
	Eighth report	20 March 1997	-
Sudan	Ninth report	20 April 1994	1
	Tenth report	20 April 1996	1
Suriname	Initial report	14 April 1985	9
	Second report	14 April 1987	6
	Third report	14 April 1989	4
	Fourth report	14 April 1991	3
	Fifth report	14 April 1993	1
	Sixth report	14 April 1995	1
	Seventh report	14 April 1997	-
Syrian Arab Republic	Twelfth report	21 May 1992	1
	Thirteenth report	21 May 1994	1
	Fourteenth report	21 May 1996	1
Tajikistan	Initial report	10 February 1996	1
Togo	Sixth report	1 October 1983	10
	Seventh report	1 October 1985	6
	Eighth report	1 October 1987	3
	Ninth report	1 October 1989	3
	Tenth report	1 October 1991	2
	Eleventh report	1 October 1993	1
	Twelfth report	1 October 1995	1
Trinidad and Tobago	Eleventh report	3 November 1994	1
	Twelfth report	3 November 1996	1
Tunisia	Thirteenth report	4 January 1994	1
	Fourteenth report	4 January 1996	1
Turkmenistan	Initial report	29 October 1995	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Uganda	Second report	21 December 1983	10
	Third report	21 December 1985	6
	Fourth report	21 December 1987	3
	Fifth report	21 December 1989	3
	Sixth report	21 December 1991	2
	Seventh report	21 December 1993	1
	Eighth report	21 December 1995	1
United Arab Emirates	Twelfth report	20 July 1997	-
United Republic of Tanzania	Eighth report	26 November 1987	5
	Ninth report	26 November 1989	5
	Tenth report	26 November 1991	2
	Eleventh report	26 November 1993	1
	Twelfth report	26 November 1995	1
United States of America	Initial report	20 November 1995	1
Uruguay	Twelfth report	4 January 1992	1
	Thirteenth report	4 January 1994	1
	Fourteenth report	4 January 1996	1
Uzbekistan	Initial report	28 October 1996	1
Venezuela	Fourteenth report	4 January 1996	1
Viet Nam	Sixth report	9 July 1993	1
	Seventh report	9 July 1995	1
	Eighth report	9 July 1997	-
Yemen	Eleventh report	17 November 1993	1
	Twelfth report	17 November 1995	1
Zambia	Twelfth report	5 March 1995	1
	Thirteenth report	5 March 1997	-
Zimbabwe	Second report	12 June 1994	1
	Third report	12 June 1996	1

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[a] For a report submitted in compliance with a special decision of the Committee taken at its forty-second session (1993), see CERD/C/247.

[b] For a report submitted in compliance with a special decision of the Committee taken at its forty-second session (1993), see CERD/C/249.

VIII. THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

664. At its 1242nd and 1244th meetings (fifty-first session), the Committee discussed the Third Decade to Combat Racism and Racial Discrimination.

665. For the consideration of this item, the Committee had before it the following documents:

(a) Measures to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance, note by the Secretary-General transmitting the report of the Special Rapporteur of the Commission on Human Rights, Mr. Maurice Glélé-Ahanhanzo, A/51/301;

(b) Implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination, report of the Secretary-General, A/51/541;

(c) General Assembly resolution 51/81 of 12 December 1996, on the Third Decade to Combat Racism and Racial Discrimination;

(d) General Assembly resolution 51/79 of 12 December 1996, on measures to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance;

(e) Social, humanitarian and human rights questions: implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination, report of the Secretary-General, E/1996/83;

(f) Report by Mr. Maurice Glélé-Ahanhanzo, Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, submitted pursuant to Commission on Human Rights resolution 1996/21, E/CN.4/1997/71;

(g) Implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination, report of the Secretary-General, E/CN.4/1997/68;

(h) Commission on Human Rights resolution 1997/73, on measures to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance;

(i) Commission on Human Rights resolution 1997/74, on racism, racial discrimination, xenophobia and related intolerance;

(j) Comprehensive examination of thematic issues relating to the elimination of racial discrimination, note by the Secretariat [letter from the Chairman of the Committee on the Elimination of Racial Discrimination to the Chairman of the Subcommission on Prevention of Discrimination and Protection of Minorities containing proposals for the preparation of studies], E/CN.4/Sub.2/1997/31;

(k) Comprehensive examination of thematic issues relating to the elimination of racial discrimination, note by the Secretariat [status report on the working paper on article 7 being prepared jointly by experts from the Committee and the Subcommission], E/CN.4/Sub.2/1997/6;

(l) Joint working paper on article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination, decision 1996/120 of the Subcommission;

(m) Implementation of the programme of action for the Third Decade to Combat Racism and Racial Discrimination, Seminar on immigration, racism and racial discrimination, 5-7 May 1997 (Briefing note draft); and

(n) United Nations seminar to assess the implementation of the Convention on the Elimination of All Forms of Racial Discrimination with particular reference to article 4 and 6, Conclusions and recommendations made during the seminar.

666. The Committee expressed particular concern about cooperation with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. It recalled its invitation to the Special Rapporteur to a joint meeting which took place at its 1095th meeting, on 22 March 1995, at the Committee's forty-eighth session. Since then cooperation had faltered. The Special Rapporteur's reports on missions have neglected relevant data submitted by the States concerned in their periodic reports under the Convention. The Special Rapporteur's conclusions about the situations in particular countries have the advantages that can be obtained from personal visits, but they remain the conclusions of a single person, whereas the Committee's conclusions derive from the collective judgment of eighteen experts.

667. The Committee took note of Commission on Human Rights resolution 1997/74, which recommended to the General Assembly, through the Economic and Social Council, the convening of a world conference on racism and racial discrimination, xenophobia and related intolerance no later than the year 2001. The Committee welcomed the resolution's request that it assist the preparatory committee; that it undertake reviews and submit recommendations concerning the conference and the preparations therefore to the preparatory committee through the Secretary-General, and that it participate actively in the conference. The Committee expressed its willingness to do so. It was also of the view that it should participate in the work of any preparatory committee. The Committee gave provisional consideration to a list of 14 subjects on which specialist reviews might be prepared as the basis of the conference's work. Other possible subjects were mentioned, and the Committee decided to return to the matter at a later stage.

668. The Committee took note of other developments with respect to the Third Decade to Combat Racism and Racial Discrimination. It noted with satisfaction that two of its members, Mr. Yuri Rechetov and Mr. Luis Valencia Rodríquez, had participated in a seminar to assess the implementation of the Convention with particular reference to articles 4 and 6, held at Geneva from 9 to 13 September 1996, and that its Chairman, Mr. Michael Banton, had participated in the seminar on immigration, racism and racial discrimination held from 5 to 7 May 1997 in the framework of the activities of the Third Decade.

669. The Committee also took note of the progress that had been made on the joint working paper on article 7 of the Convention. That paper was being prepared jointly by two members of the Committee, Mr. Ivan Garvalov and Mrs. Shanti Sadiq Ali, and two members of the Subcommission on Prevention of Discrimination and Protection of Minorities, Mr. José Bengoa and Mr. Mustafa Mehedi. The Committee expressed its appreciation particularly to Mr. Garvalov and Mrs. Sadiq Ali, who had prepared preliminary contributions for consideration by the four experts. Those efforts had significantly advanced the work of the four experts and laid the basis for the joint paper to be completed and submitted in August 1998 to both the Committee and the Subcommission.

IX. OVERVIEW OF THE METHODS OF WORK OF THE COMMITTEE

670. An overview of the methods of work of the Committee appeared in paragraphs 587 to 627 of its report to the fifty-first session of the General Assembly.[4] That summary highlighted changes introduced in recent years and was designed to make the Committee's procedures more transparent and accessible to both States parties and the public. No material changes have occurred in the Committee's methods of work since that report.

671. It was agreed that it would be appropriate to discuss the Committee's methods of work, including the concluding observations, at the next session.

Notes

[1] See Official Records of the International Convention on the Elimination of All Forms of Racial Discrimination, Sixteenth Meeting of States Parties, Decisions (CERD/SP/55 to 57).

[2] Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 18 (A/8718), chap. IX, sect. B.

[3] Ibid., Forty-eighth Session, Supplement No. 18 (A/48/18), annex III.

[4] United Nations, Treaty Series, vol. 75, No. 973.

[5] Official Records of the General Assembly, Forty-ninth Session, Supplement No. 18 (A/49/18), paras. 92-105.

[6] Ibid., Forty-seventh Session, Supplement No. 18 (A/47/18), paras. 261-266; Forty-eighth Session, Supplement No. 18 (A/48/18), paras. 566-573; and Forty-ninth Session, Supplement No. 18 (A/49/18), paras. 98-105.

[7] Ibid., Fifty-first Session, Supplement No. 18 (A/51/18).

[8] Ibid., Fiftieth Session, Supplement No. 18 (A/50/18), paras. 298-319.

[9] Ibid., paras. 339-352.

[10] Ibid., Forty-ninth Session, Supplement No. 18 (A/49/18), paras. 429-443.

[11] Ibid., Forty-third Session, Supplement No. 18 (A/43/18), annex IV.

[12] Ibid., Forty-sixth Session, Supplement No. 18 (A/46/18), annex VIII.

[13] Ibid., Forty-eighth Session, Supplement No. 18 (A/46/18), annex IV.

[14] Ibid., Forty-ninth Session, Supplement No. 18 (A/49/18), annex IV.

[15] Ibid., Fiftieth Session, Supplement No. 18 (A/50/18), annex VIII.

[16] Ibid., Fifty-first Session, Supplement No. 23 (A/51/23), paras. 73, 81 and 82.

ANNEX I

Status of the Convention

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination (148), as at 22 August 1997

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Afghanistan	6 July 1983[a]	5 August 1983
Albania	11 May 1994[a]	10 June 1994
Algeria	14 February 1972	15 March 1972
Antigua and Barbuda	25 October 1988[a]	24 November 1988
Argentina	2 October 1968	4 January 1969
Armenia	23 June 1993[a]	23 July 1993
Australia	30 September 1975	30 October 1975
Austria	9 May 1972	8 June 1972
Azerbaijan	16 August 1996[a]	15 September 1996
Bahamas	5 August 1975[b]	4 September 1975
Bahrain	27 March 1990[a]	26 April 1990
Bangladesh	11 June 1979[a]	11 July 1979
Barbados	8 November 1972[a]	8 December 1972
Belarus	8 April 1969	8 May 1969
Belgium	7 August 1975	6 September 1975
Bolivia	22 September 1970	22 October 1970
Bosnia and Herzegovina	16 July 1993[b]	16 July 1993
Botswana	20 February 1974[a]	22 March 1974
Brazil	27 March 1968	4 January 1969
Bulgaria	8 August 1966	4 January 1969
Burkina Faso	18 July 1974[a]	17 August 1974
Burundi	27 October 1977	26 November 1977
Cambodia	28 November 1983	28 December 1983
Cameroon	24 June 1971	24 July 1971
Canada	14 October 1970	13 November 1970
Cape Verde	3 October 1979[a]	2 November 1979
Central African Republic	16 March 1971	15 April 1971
Chad	17 August 1977[a]	16 September 1977
Chile	20 October 1971	19 November 1971
China	29 December 1981[a]	28 January 1982
Colombia	2 September 1981	2 October 1981
Congo	11 July 1988[a]	10 August 1988
Costa Rica	16 January 1967	4 January 1969
Côte d'Ivoire	4 January 1973[a]	3 February 1973
Croatia	12 October 1992[b]	8 October 1991

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Cuba	15 February 1972	16 March 1972
Cyprus	21 April 1967	4 January 1969
Czech Republic	22 February 1993[b]	1 January 1993
Democratic Republic of the Congo	21 April 1976[a]	21 May 1976
Denmark	9 December 1971	8 January 1972
Dominican Republic	25 May 1983[a]	24 June 1983
Ecuador	22 September 1966[a]	4 January 1969
Egypt	1 May 1967	4 January 1969
El Salvador	30 November 1979[a]	30 December 1979
Estonia	21 October 1991[a]	20 November 1991
Ethiopia	23 June 1976[a]	23 July 1976
Fiji	11 January 1973[b]	10 February 1973
Finland	14 July 1970	13 August 1970
France	28 July 1971[a]	27 August 1971
Gabon	29 February 1980	30 March 1980
Gambia	29 December 1978[a]	28 January 1979
Germany	16 May 1969	15 June 1969
Ghana	8 September 1966	4 January 1969
Greece	18 June 1970	18 July 1970
Guatemala	18 January 1983	17 February 1983
Guinea	14 March 1977	13 April 1977
Guyana	15 February 1977	17 March 1977
Haiti	19 December 1972	18 January 1973
Holy See	1 May 1969	31 May 1969
Hungary	1 May 1967	4 January 1969
Iceland	13 March 1967	4 January 1969
India	3 December 1968	4 January 1969
Iran (Islamic Republic of)	29 August 1968	4 January 1969
Iraq	14 January 1970	13 February 1970
Israel	3 January 1979	2 February 1979
Italy	5 January 1976	4 February 1976
Jamaica	4 June 1971	4 July 1971
Japan	15 December 1995	14 January 1996
Jordan	30 May 1974[a]	29 June 1974
Kuwait	15 October 1968[a]	4 January 1969
Lao People's Democratic Republic	22 February 1974[a]	24 March 1974
Latvia	14 April 1992[a]	14 May 1992
Lebanon	12 November 1971[a]	12 December 1971
Lesotho	4 November 1971[a]	4 December 1971
Liberia	5 November 1976[a]	5 December 1976

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Libyan Arab Jamahiriya	3 July 1968[a]	4 January 1969
Luxembourg	1 May 1978	31 May 1978
Madagascar	7 February 1969	9 March 1969
Malawi	11 June 1996[a]	11 July 1996
Maldives	24 April 1984[a]	24 May 1984
Mali	16 July 1974[a]	15 August 1974
Malta	27 May 1971	26 June 1971
Mauritania	13 December 1988	12 January 1989
Mauritius	30 May 1972[a]	29 June 1972
Mexico	20 February 1975	22 March 1975
Monaco	27 September 1995	27 October 1995
Mongolia	6 August 1969	5 September 1969
Morocco	18 December 1970	17 January 1971
Mozambique	18 April 1983[a]	18 May 1983
Namibia	11 November 1982[a]	11 December 1982
Nepal	30 January 1971[a]	1 March 1971
Netherlands	10 December 1971	9 January 1972
New Zealand	22 November 1972	22 December 1972
Nicaragua	15 February 1978[a]	17 March 1978
Niger	27 April 1967	4 January 1969
Nigeria	16 October 1967[a]	4 January 1969
Norway	6 August 1970	5 September 1970
Pakistan	21 September 1966	4 January 1969
Panama	16 August 1967	4 January 1969
Papua New Guinea	27 January 1982[a]	26 February 1982
Peru	29 September 1971	29 October 1971
Philippines	15 September 1967	4 January 1969
Poland	5 December 1968	4 January 1969
Portugal	24 August 1982[a]	23 September 1982
Qatar	22 July 1976[a]	21 August 1976
Republic of Korea	5 December 1978[a]	4 January 1979
Republic of Moldova	26 January 1993[a]	25 February 1993
Romania	15 September 1970[a]	15 October 1970
Russian Federation	4 February 1969	6 March 1969
Rwanda	16 April 1975[a]	16 May 1975
Saint Lucia	14 February 1990[b]	16 March 1990
Saint Vincent and the Grenadines	9 November 1981[a]	9 December 1981
Senegal	19 April 1972	19 May 1972
Seychelles	7 March 1978[a]	6 April 1978
Sierra Leone	2 August 1967	4 January 1969

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Slovakia	28 May 1993[b]	28 May 1993
Slovenia	6 July 1992[b]	6 July 1992
Solomon Islands	17 March 1982[b]	16 April 1982
Somalia	26 August 1975	25 September 1975
Spain	13 September 1968[a]	4 January 1969
Sri Lanka	18 February 1982[a]	20 March 1982
Sudan	21 March 1977[a]	20 April 1977
Suriname	15 March 1984[b]	14 April 1984
Swaziland	7 April 1969[a]	7 May 1969
Sweden	6 December 1971	5 January 1972
Switzerland	29 November 1994[a]	29 December 1994
Syrian Arab Republic	21 April 1969[a]	21 May 1969
Tajikistan	11 January 1995[a]	10 February 1995
The former Yugoslav Republic of Macedonia	18 January 1994[b]	17 September 1991
Togo	1 September 1972[a]	1 October 1972
Tonga	16 February 1972[a]	17 March 1972
Trinidad and Tobago	4 October 1973	3 November 1973
Tunisia	13 January 1967	4 January 1969
Turkmenistan	29 September 1994[a]	29 October 1994
Uganda	21 November 1980[a]	21 December 1980
Ukraine	7 March 1969	6 April 1969
United Arab Emirates	20 June 1974[a]	20 July 1974
United Kingdom of Great Britain and Northern Ireland	7 March 1969	6 April 1969
United Republic of Tanzania	27 October 1972[a]	26 November 1972
United States of America	21 October 1994	20 November 1994
Uruguay	30 August 1968	4 January 1969
Uzbekistan	28 September 1995[a]	28 October 1995
Venezuela	10 October 1967	4 January 1969
Viet Nam	9 June 1982[a]	9 July 1982
Yemen	18 October 1972[a]	17 November 1972
Yugoslavia	2 October 1967	4 January 1969
Zambia	4 February 1972	5 March 1972
Zimbabwe	13 May 1991[a]	12 June 1991

B. States parties that have made the declaration under article 14, paragraph 1, of the Convention (24), as at 22 August 1997

State party	Date of deposit of the declaration	Effective date
Algeria	12 September 1989	12 September 1989
Australia	28 January 1993	28 January 1993
Bulgaria	12 May 1993	12 May 1993
Chile	18 May 1994	18 May 1994
Costa Rica	8 January 1974	8 January 1974
Cyprus	30 December 1993	30 December 1993
Denmark	11 October 1985	11 October 1985
Ecuador	18 March 1977	18 March 1977
Finland	16 November 1994	16 November 1994
France	16 August 1982	16 August 1982
Hungary	13 September 1990	13 September 1990
Iceland	10 August 1981	10 August 1981
Italy	5 May 1978	5 May 1978
Luxembourg	22 July 1996	22 July 1996
Netherlands	10 December 1971	9 January 1972
Norway	23 January 1976	23 January 1976
Peru	27 November 1984	27 November 1984
Republic of Korea	5 March 1997	5 March 1997
Russian Federation	1 October 1991	1 October 1991
Senegal	3 December 1982	3 December 1982
Slovakia	17 March 1995	17 March 1995
Sweden	6 December 1971	5 January 1972
Ukraine	28 July 1992	28 July 1992
Uruguay	11 September 1972	11 September 1972

C. States parties that have accepted the amendments to the Convention adopted at the Fourteenth Meeting of States Parties[c] (23), as at 22 August 1997

State party	Date acceptance received
Australia	15 October 1993
Bahamas	31 March 1994
Bulgaria	2 March 1995
Burkina Faso	9 August 1993
Canada	8 February 1995
Cuba	21 November 1996
Cyprus	29 July 1997
Denmark	3 September 1993
Finland	9 February 1994
France	1 September 1994
Germany	15 January 1996
Mexico	16 September 1996
Netherlands (for the Kingdom in Europe and the Netherlands Antilles and Aruba)	24 January 1995

State party	Date acceptance received
New Zealand	8 October 1993
Norway	6 October 1993
Republic of Korea	30 November 1993
Seychelles	23 July 1993
Sweden	14 May 1993
Switzerland	16 December 1996
Trinidad and Tobago	23 August 1993
Ukraine	17 June 1994
United Kingdom of Great Britain and Northern Ireland	7 February 1994
Zimbabwe	10 April 1997

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[a] Accession.

[b] Date of receipt of notification of succession.

[c] For the amendments to enter into force, acceptance must be received from two thirds of the States parties to the Convention.

ANNEX II

Agendas of the fiftieth and fifty-first sessions

A. Fiftieth session

1. Adoption of the agenda.

2. Report of the Chairman.

3. Organizational and other matters.

4. Prevention of racial discrimination, including early-warning and urgent procedures.

5. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.

6. Consideration of communications under article 14 of the Convention.

7. Submission of reports by States parties under article 9, paragraph 1 of the Convention.

8. Action by the General Assembly at its fifty-first session:

   (a) Annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention;

   (b) Effective implementation of international instruments on human rights.

9. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.

10. Third Decade to Combat Racism and Racial Discrimination.

B. Fifty-first session

1. Adoption of the agenda.

2. Report of the Chairman.

3. Organizational and other matters.

4. Prevention of racial discrimination, including early warning and urgent procedures.

5. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.

6. Consideration of communications under article 14 of the Convention.

7. Submission of reports by States parties under article 9, paragraph 1 of the Convention.

8. Action by the General Assembly at its fifty-first session:

   (a) Annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention;

   (b) Effective implementation of international instruments on human rights.

9. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.

10. Third Decade to Combat Racism and Racial Discrimination.

ANNEX III

Decision of the Committee on the Elimination of Racial Discrimination under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination

Fifty-first session

concerning

Communication No. 7/1995

Submitted by: Paul Barbaro

Alleged victim: The author

State party: Australia

Date of communication: 31 March 1995 (initial submission)

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 14 August 1997,

Adopts the following:

Decision on admissibility

1. The author of the communication is Paul Barbaro, who is of Italian origin and currently resides in Golden Grove, South Australia. He contends that he has been a victim of racial discrimination by Australia, although he does not invoke the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination. Australia made the declaration under article 14, paragraph 1, of the Convention on 28 January 1993.

The facts as presented by the author

2.1 On 25 June 1986, the author obtained temporary employment at the Casino of Adelaide, South Australia; he initially worked as a bar porter, and subsequently as an attendant. On 16 April 1987, the Liquor Licensing Commissioner (LLC) of the South Australian Liquor Licensing Commission, which is responsible for supervising the observance of the rules governing the management of the Adelaide Casino, and must ensure that its operations are subject to continued scrutiny, withdrew the author's temporary employment licence and refused to approve his permanent employment with the Casino. A hearing, during which the LLC questioned the author on a number of points and discussed his concerns, was held on 30 April 1987.

2.2 In September 1993, well over six years later, the author complained to the Australian Human Rights and Equal Opportunities Commission (HREOC), claiming that the Liquor Licensing Commissioner's decision had been unlawful under sections 9 and 15 of Australia's Race Discrimination Act of 1975. He argued,

inter alia, that the Liquor Licensing Commissioner had decided against his obtaining a permanent contract because of his and his family's Italian (Calabrian) origin, because some of his relatives were allegedly involved in criminal activities, notably trafficking of illegal drugs, of which he did not know anything. Mr. Barbaro contends that this attitude effectively restricts the possibilities for employment for Italians who are not themselves criminals but who may have relatives that are. In support of his argument, the author refers to letters of support from Peter Duncan, M.P., who seriously questioned and denounced this perceived practice of "guilt by association".

2.3 The author refers to similar cases in which the ethnic background of applicants for employment in licensed casinos was adduced as a reason for not approving employment. In particular, he refers to the case of Carmine Alvaro, decided by the Supreme Court of South Australia in December 1986, who was refused permanent employment because of his family's involvement in the cultivation and sale of illegal drugs. In this case, the LLC had stated that he had been advised by the police that they had received information that one of the drug families of the area would attempt to place a "plant" at the Casino.

2.4 The HREOC forwarded the author's complaint to the South Australian Attorney-General's Department for comments. The latter informed the HREOC that the "sole reason for refusing [the author's] employment was to ensure the integrity of the Adelaide Casino and public confidence in that institution". Reference was made in this context to a report from the Commissioner of Police, which stated:

> "Paul Barbaro has no convictions in this state. He is a member of a broad family group which, in my opinion, can only be described as a major organized crime group ... Eighteen members of this group have been convicted of major drug offences ... The offences are spread across four States of Australia. All are of Italian extraction. All are related by marriage or direct blood lines."

2.5 There were some discrepancies between the author's and the LLC's assertions in respect of the degree of some of the relationships, in particular the relationships established by the marriages of the author's siblings. The author emphasized that he had maintained a certain autonomy from his relatives and that he did not know personally many of the people listed in the Police Commissioner's report. He also insisted that he knew nothing of his relatives' previous drug-related offences.

2.6 On 30 November 1994, the Racial Discrimination Commissioner of the HREOC rejected the author's claims concerning his unlawful dismissal, having determined that it was the author's perceived or actual relationships with individuals who have criminal records, and not his Italian ethnic origin, which was the basis for the LLC's decision. The Race Discrimination Commissioner stated that "[T]he fact that [he] and [his] family members are of Italian origin or descent is not germane" to the solution of the case.

2.7 On 7 December 1994, the author appealed for review of the Racial Discrimination Commissioner's decision. By decision of 21 March 1995, the President of the HREOC confirmed the decision of the Racial Discrimination Commissioner, holding that there was no evidence that the author's ethnic background had been a factor in the LLC's decision.

The complaint

3. Although the author does not invoke any provision of the Convention, it transpires from his communication that he claims a violation by the State party of articles 1, paragraph 1, and 5 (a) and (e) (i) of the Convention.

State party's submission on the admissibility of the communication and author's comments thereon

4.1 By submission of March 1996, the State party challenges the admissibility of the communication on several grounds. It first supplements the facts as presented by the author. Thus, the State party notes that when obtaining temporary employment in 1986, the author gave the Police Commissioner for South Australia written authorization to release to the LLC particulars of all convictions and other information that the Police Department may have had on him. On 25 June 1986, Mr. Barbaro acknowledged in writing that the granting of temporary employment was subject to all enquiries made concerning his application for approval as a Casino employee being concluded to the satisfaction of the LLC, and that temporary approval could be withdrawn at any time.

4.2 On 30 April 1987, the author, accompanied by his lawyer and two character witnesses, attended a hearing before the LLC, during which the LLC explained his concern that the author had an association with an organized crime group. The author was given an opportunity to comment on the evidence which had been provided to the LLC by the Police Commissioner.

4.3 In relation to the author's complaint before the HREOC, the State party notes that after the dismissal of Mr. Barbaro's complaint by the Race Discrimination Commissioner, the author gave notice of appeal to have the decision reviewed under section 24AA 9(1) of the Race Discrimination Act (RDA). the President of the HREOC, Sir Ronald Wilson, a former High Court judge, confirmed the decision in accordance with section 24AA 2(b)(i) of the RDA, holding that there was no evidence that the author's ethnic origin constituted a ground for the alleged discrimination.

4.4 The State party contends that the case is inadmissible as incompatible with the provisions of the Convention, on the basis of rule 91(c) of the Committee's rules of procedure, as the Committee is said to lack the competence to deal with the communication. In this context, the State party affirms that Australian law and the RDA conform with the provisions of the Convention. The RDA was enacted by the Federal Government and implements articles 2 and 5 of the Convention by making racial discrimination unlawful and ensuring equality before the law (sections 9 and 10). The wording of section 9 closely follows the wording of the definition of racial discrimination in article 1 of the Convention. Section 15 of the RDA implements the provisions of article 5 of the Convention in relation to employment. Moreover, the HREOC is a national authority established in 1986 for the purpose of receiving and investigating alleged breaches of the RDA. Members of the HREOC are statutory appointees and as such enjoy a high degree of independence. HREOC investigated the author's case thoroughly and found no evidence of racial discrimination.

4.5 In the light of the above, the State party argues that it would be inappropriate for the Committee to effectively review the decision of the HREOC. While it concedes that the issue of whether the decision of the HREOC was arbitrary, amounted to a denial of justice or violated its obligation of impartiality and independence, would fall within the Committee's jurisdiction,

it contends that the author did not submit any evidence to this effect. Rather, the evidence contained in the transcript of the hearing before the LLC and the correspondence with the HREOC indicate that the author's claim was considered within the terms both of the RDA and the Convention.

4.6 The State party further submits that the complaint is inadmissible on the basis of lack of substantiation, arguing that the author did not provide any evidence that his treatment amounted to a 'distinction, exclusion, restriction, or preference based on race, colour, descent, or national or ethnic origin which [had] the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise, on an equal footing, of human rights ...' (article 1, paragraph 1, of the Convention). There is said to be no evidence that the author's ethnic or national origin was a factor in the decision of the LLC to refuse a permanent appointment to the author; rather, he was concerned to fulfil his duty to ensure that the operations of the casino were subject to constant scrutiny and to guarantee public confidence in the casino's lawful operation and management.

4.7 Finally, the State party claims that the author failed to exhaust available domestic remedies, as required by article 14, paragraph 7 (a), of the Convention, and that he had two available and effective remedies which he should have pursued in relation to his allegation of unfair dismissal. Firstly, it would have been open to the author to challenge the decision of the President of the HREOC in the Federal Court of Australia, pursuant to the Administrative Decisions (Judicial Review) Act of 1977 (ADJR Act). The State party emphasizes that the decision of the HREOC President was reviewable under the ADJR Act: grounds for review are listed in section 5 of the Act; they include grounds that there is no evidence or other material to justify the taking of the decision, and that the adoption of the decision was an improper exercise of power. The State party argues that this review mechanism is both available and effective within the meaning of the Committee's admissibility requirements: thus, pursuant to any application under the ADJR Act, the Court may set aside the impugned decision, refer it back to the first instance for further consideration subject to directions, or declare the rights of the parties.

4.8 According to the State party, the author could also have challenged the LLC's decision in the Supreme Court of South Australia, by seeking judicial review under Rule 98.01 of the South Australian Supreme Court Rules. Under Rule 98.01, the Supreme Court may grant a declaration in the nature of certiorari or mandamus. Under Rule 98.09, the Supreme Court may award damages on a summons for judicial review. It is submitted that an action for judicial review pursuant to Rule 98 was an available remedy in the instant case.

4.9 The State party concedes that the author was not obliged to exhaust local remedies which are ineffective or objectively have no prospect of success. It refers in this context to the decision of the Full Court of the Supreme Court of South Australia in the case of R. v. Seckler ex parte Alvaro ('Alvaro's case'), decided on 23 December 1986. The material facts of that case were similar to the author's: the respondent was the LLC of South Australia, the same person as in the author's case, and the matter at issue was the respondent's refusal to approve the plaintiff's employment. By majority, the Supreme Court of South Australia held that the plaintiff was not entitled to relief. In the State party's opinion, the judicial precedent provided by the decision in Alvaro's case did not excuse the author from exhausting the remedy available by way of judicial review; it adds that 'unlike an established legal doctrine, a single majority judgment in a relatively new area of law does not meet the test of

obvious futility required in order to countenance non-exhaustion of an available remedy".

4.10 Still in the same context, the State party rejects as too broad an interpretation the argument that exhaustion of domestic remedies cannot be required if the remedies available probably would not result in a favourable outcome. Therefore, judicial review under Rule 98 of the Supreme Court Rules is said to be both an available and an effective remedy, to which the author did not resort. The State party notes that the author did not file his claim within the six months of the grounds for review first arising (7 November 1987), as is required under Rule 98.06 of the Supreme Court Rules. Thus, while barred from pursuing this remedy now because of the expiration of statutory deadlines, the State party observes that failure to pursue the remedy in a timely manner must be attributed to the author. Reference to the jurisprudence of the Human Rights Committee is made.

5.1 In comments dated 28 April 1996, the author rebuts the State party's arguments and dismisses them as irrelevant to the solution of his case. He questions the credibility of the State party's arguments in the light of the letters of support he received from a Member of Parliament, Mr. Peter Duncan.

5.2 In the author's opinion, the Committee does have competence to deal with the merits of his claims. He contends that the HREOC did not examine his complaint with the requisite procedural fairness. In this context, he notes, without giving further explanations, that the RDA allows complainants to attend a hearing at some designated location to present arguments in support of the complaint, and that this did not occur in his case. The result, he surmises, led to an uninformed decision of the HREOC which was not compatible with the provisions of the Convention.

5.3 The author notes that the President of the HREOC, Sir Ronald Wilson, who dismissed his claim on 21 March 1995, had been a judge in the Supreme Court of South Australia when the decision in Alvaro's case was handed down in December 1986. He now argues that there was a conflict of interest on the part of the President of the HREOC, who had determined the merits of a factually comparable case in the Supreme Court of South Australia before dealing with the author's own case. In the circumstances, the author argues that the decision of the HREOC was tainted by bias and arbitrariness and that the Committee has competence to deal with his case.

5.4 The author reiterates that there is sufficient evidence to show that his case falls prima facie within the scope of application of article 1, paragraph 1, of the Convention. He argues that "[a]s with normal practices of institutionalized racism a clear and precise reason [for termination of employment] was not given nor required to be given". He further contends that it is difficult to see how the acts of State agents in his case did not amount to a "distinction" within the meaning of the Convention, given the terms of the Police Commissioner's report to the LLC from 1987, where it was explicitly stated that the author was "a member of a broad family group ... All are of Italian extraction". From this reasoning, the author asserts, it is clear that individuals with his background are precluded from enjoying or exercising their rights on an equal footing with other members of the community. He also refers to a judgment in the case of Mandala and Anor v. Dowell Lee, ((1983) All ER, 1062), where it was held that blatant and obviously discriminatory statements are generally not required when investigating instances of race distinctions, since direct evidence of racial bias is often disguised.

5.5 As to the requirement of exhaustion of domestic remedies, the author observes that the decision handed down by the President of the HREOC on 21 March 1995 and transmitted to him on 24 March 1995 failed to mention any possible further remedies. He notes that the RDA itself is silent on the possibility of judicial review of decisions adopted by the President of the HREOC by the Federal Court of Australia.

5.6 Finally, the author contends that the possibility of judicial review of the decision of the LLC to refuse him permanent employment under the rules of the Supreme Court of South Australia is not realistically open to him. He argues that the judgment of the Supreme Court of South Australia in Alvaro's case does constitute a relevant precedent for the determination of his own case, all the more so since the State party itself acknowledges that Alvaro's case presented many similarities to the author's. If adding the fact that the President of the HREOC who dismissed the author's appeal had previously been involved in the determination of Alvaro's case, the author adds, then the possibility of challenging his decision before the Supreme Court successfully was remote.

6.1 By further submission of 22 July 1996, the State party in turn dismisses as partial or incorrect several of the author's comments. It notes that the author was partial in choosing quotes from the Police Commissioner's report and that the complete quotes indicate that the operative factor in the LLC's decision concerning Mr. Barbaro's suitability for casino employment was his association with 18 members of his family who had been convicted of major drug-related offences. Ethnicity was only raised by the Police Commissioner as one factor, combined with others such as family association and the type of offences; the author's ethnic background was relevant only in so far as it assisted in defining this cluster of associations.

6.2 The State party concedes that in Australian employment practice, associates of applicants for employment are generally not considered a relevant factor in the determination of suitability for employment. In the instant case, it was relevant because the LLC was not an employer but a statutory officer. His statutory role was to ensure the constant scrutiny of casino operations, a role recognized by the Supreme Court of South Australia in Alvaro's case. In short, the LLC was entrusted with maintenance of the internal and external integrity of the casino. Like an employer, however, he was subject to the provisions of the RDA of 1975; in the instant case, the State party reiterates that the fact that there were drug offenders in the author's extended family was a proper justification for the LLC's decision.

6.3 The State party agrees in principle with the author's assertion that obvious and blatant expressions of racial discrimination are not required when investigating instances of race distinctions. It notes in this context that prohibition of indirectly discriminatory acts or unintentionally discriminatory acts is an established principle of Australian law. However, the State party re-emphasizes that decisions in Mr. Barbaro's case rested on grounds other than race, colour, descent or national or ethnic origin.

6.4 The State party contends that the author's comments raise new allegations about the fairness of the procedures before the HREOC, especially as regards his claim that he was denied due process since he was not afforded an opportunity to attend a hearing to present his complaint. The State party argues that the author did not exhaust domestic remedies in this respect and that he could have filed an application for judicial review of this allegation under the ADJR. In any event, the State party continues, procedural fairness did not require the personal attendance of Mr. Barbaro to present his complaint. In the case of the

HREOC, the grounds for dismissing complaints prior to conciliation are set out in section 24 (2) of the RDA. They are:

(a) if the Race Discrimination Commissioner is satisfied that the discriminatory act is not unlawful by reason of a provision of the RDA;

(b) if the Commissioner is of the opinion that the aggrieved person does not desire that the inquiry be made or continued;

(c) if the complaint has been made to the Commission in relation to an act which occurred more than 12 months prior to the filing of the claim;

(d) if the Commissioner is of the opinion that the complaint under consideration is frivolous, vexatious, misconceived or lacking in substance.

In the author's case, the President of the HREOC dismissed the complaint on the basis of section 24 (2) (d) of the RDA.

6.5 The State party dismisses as totally unfounded the author's argument that the decision of the HREOC was biased because of an alleged conflict of interest on the part of the President of the HREOC. The State party points to the long-standing involvement of the President of the HREOC in the legal profession and adds that for someone with the profile and the background of the President of the HREOC, it is indeed likely that he will consider at different times issues which are related in law or in fact. The State party emphasizes that a previous encounter with a similar (factual or legal) issue does not result in a conflict of interest. Further evidence of bias is required, which the author has patently failed to provide.

6.6 As to Mr. Barbaro's contention that he was not informed of the availability of domestic remedies after the HREOC's decision of 21 March 1995, the State party notes that neither the Convention nor the Australian RDA of 1975 impose an obligation to indicate all available appellate mechanisms to a complainant.

6.7 Finally, concerning the letters of support sent to the HREOC on the author's behalf by a Member of Parliament, Mr. Peter Duncan, formerly a parliamentary secretary to the Attorney-General, the State party recalls that Federal Parliamentarians frequently write to the HREOC on behalf of their constituents, advocating the rights of their constituents in their role as democratically elected representatives. The State party contends that this role must be distinguished from both the investigative role of the independent HREOC and the executive role of the parliamentary secretary to the Attorney-General. In the instant case, it was clear that the M. P. acted on the author's behalf in his representative role. More importantly, the purpose of the letters was to urge a thorough investigation of the author's complaints by the HREOC. Once a final decision in the case had been taken, Mr. Duncan did not write again.

7. During its forty-ninth session, in August 1996, the Committee considered the communication but concluded that further information from the State party was required before an informed decision on admissibility could be adopted. Accordingly, the State party was requested to clarify:

(a) whether the author would have had the opportunity, in the event that complaints under the Administrative Decisions (Judicial Review) Act and pursuant to Rule 98.01 of the Rules of the Supreme Court of South Australia had been dismissed, to appeal further to the Federal Court of Australia, or whether he could have complained directly to the Federal Court of Australia;

(b) whether the State party consistently does, or does not, inform individuals in the author's situation of the availability of judicial remedies in their cases.

8.1 In reply, the State party notes that Mr. Barbaro would have had the opportunity to appeal to the Federal Court of Australia and subsequently the High Court of Australia in the event that a complaint under the ADJR Act had been dismissed. Under section 8, the Federal Court of Australia has jurisdiction to hear applications under the ADJR Act; applications may be filed in respect of decisions to which the Act applies, and decisions of the President of the HREOC fall within the definition of "decision(s) to which this Act applies" (section 3 (1)). The author thus had the right to seek judicial review of the President's decision before a single judge of the Federal Court of Australia on any of the grounds listed in section 5 of the ADJR Act relevant to his case, within 28 days of the decision of the HREOC President. If an application before a single Federal Court judge had been unsuccessful, the author would have had the right to seek leave to appeal to the full Federal Court.

8.2 If unsuccessful in the full Federal Court of Australia application, the author would have been further entitled to seek special leave to appeal to the High Court of Australia under Order 69A of the High Court Rules; criteria for granting special leave to appeal are listed in section 35A of the federal Judiciary Act 1903. If special leave to appeal were granted, a three-week period from the granting of special leave to appeal would apply for the filing of the notice of appeal.

8.3 The State party further notes that the author would have had an opportunity to appeal to the full court of the Supreme Court of South Australia and thereafter the High Court of Australia if a complaint under Rule 98.01 of the Rules of the Supreme Court of South Australia had been dismissed by a single judge (section 50 of the Supreme Court Act, 1935 (South Australia)). Mr. Barbaro would have had to lodge an appeal within 14 days of the single judge's decision. If an appeal to the full court of South Australia had been unsuccessful, Mr. Barbaro could have sought special leave from the High Court of Australia to appeal against the decision of the full court of the Supreme Court of South Australia pursuant to section 35 of the Federal Judiciary Act, 1903.

8.4 The State party reiterates that the Convention does not impose an obligation to indicate all available appeal mechanisms to a complainant. There is no statutory obligation to provide individuals with information about possible judicial remedies under federal or South Australian law; nor is it the practice of the federal Government or the Government of South Australia to advise individuals about possible appeal rights. There are, however, some obligations to inform individuals of their appeal rights: thus, under the federal Race Discrimination Act, 1975, where the Race Discrimination Commissioner decides not to enquire into an action in respect of which a complaint was filed, he or she must inform the complainant for that decision, of the ratio decidendi and of the complainant's rights to have this decision reviewed by the HREOC President (section 24 (3)). In Mr. Barbaro's case, this obligation was met. It is, moreover, the practice of the HREOC to advise verbally any complainant who has manifested a desire to challenge a decision of the Commission's president of other avenues of appeal. There is no evidence that the HREOC deviated from this practice in the author's case.

8.5 The State party notes that Mr. Barbaro does not appear to have sought legal advice on appeals and remedies available to him; it adds that it is common

knowledge that a system of publicly funded legal aid exists in Australia, as well as a national network of Community Legal Centres, including in South Australia. Both Legal Aid and Community Legal Centres would have provided free legal advice about possible appeal mechanisms to individuals in the author's situation. Mr. Barbaro's failure to avail himself of such free legal advice cannot be attributed to the State party; reference is made to the Committee's jurisprudence that it is the author's own responsibility to exhaust domestic remedies.[a]

9.1 In his comments, the author concedes that the Race Discrimination Commissioner informed him of his right of review of her decision under section 24AA (1) of the Race Discrimination Act. He submits, however, that the President of the HREOC did not inform him of the possibilities of any avenues of appeal against his decision communicated to the author on 24 March 1995; he contends that the HREOC President, a former High Court judge, should have informed him of possible remedies. Mr. Barbaro adds that, as a layman, he could not have been aware of any other possible judicial remedies against the decision of the HREOC President.

9.2 The author reaffirms that an application to the Supreme Court of South Australia under Rule 98.01 of the Court's Rules would have been futile, given the Supreme Court's earlier judgment in Alvaro's case.

9.3 Finally, with regard to the State party's reference to the availability of legal advice from Community Legal Centres, Mr. Barbaro submits that "such assistance is only available in extreme situations and ... only of the matter involves an indictable offence".

Issues and proceedings before the Committee

10.1 Before considering any claims contained in a communication, the Committee on the Elimination of Racial Discrimination must decide, pursuant to article 14, paragraph 7 (a), of the Convention, whether or not the case is admissible.

10.2 The State party contends that the author's claims are inadmissible on the basis of failure to substantiate the racially discriminatory nature of the LLC's decision of May 1987. The Committee notes that the author has made specific allegations, notably in so far as they relate to passages in the report of the Police Commissioner of South Australia which had been made available to the LLC, to support his contention that his national and/or ethnic background influenced the decision of the LLC. In the Committee's opinion, the author has sufficiently substantiated, for purposes of admissibility, his claims under article 5 (a) and (e) (i), read together with article 1, paragraph 1, of the Convention.

10.3 The State party has also claimed that the author has failed to exhaust domestic remedies which were both available and effective, since he could have challenged the decision of the President of the HREOC under the Administrative Decisions (Judicial Review) Act, and the decision of the LLC pursuant to Rule 98.01 of the Rules of the Supreme Court of South Australia. The author has replied that (a) he was not informed of the availability of those remedies, and (b) that the precedent established by the judgment in Alvaro's case would have made an appeal to the Supreme Court of South Australia futile.

10.4 The Committee begins by noting that the author was legally represented during the hearing before the LLC on 30 April 1987. It would have been incumbent upon his legal representative to inform him of possible avenues of

appeal after the LLC's decision to terminate the author's employment. That the author was not informed of potential judicial remedies by the judicial authorities of South Australia did not absolve him from seeking to pursue avenues of judicial redress; nor can the impossibility to do so now, after expiration of statutory deadlines for the filing of appeals, be attributed to the State party.

10.5 The Committee further does not consider that the judgment of the Supreme Court of South Australia in Alvaro's case was necessarily dispositive of the author's own case. Firstly, the judgment in Alvaro's case was a majority and not a unanimous judgment. Secondly, the judgment was delivered in respect of legal issues which were, as the State party points out, largely uncharted. In the circumstances, the existence of one judgment, albeit on issues similar to those in the author's case, did not absolve Mr. Barbaro from attempting to avail himself of the remedy under Rule 98.01 of the Supreme Court Rules. Finally, even if that recourse had failed, it would have been open to the author to appeal to Federal court instances. In the circumstances, the Committee concludes that the author has failed to meet the requirements of article 14, paragraph 7 (a), of the Convention.

11. The Committee on the Elimination of Racial Discrimination therefore decides:

(a) that the communication is inadmissible;

(b) that this decision shall be communicated to the State party and to the author.

Notes

[a] See decision on communication No. 5/1994 (C. P. and his son v. Denmark), para. 6.2, in Official Records of the General Assembly, Fiftieth Session, Supplement No. 18 (A/50/18), annex VIII.

ANNEX IV

Documents received by the Committee at its fiftieth and fifty-first sessions in conformity with article 15 of the Convention

The following is a list of working papers submitted by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples:

Bermuda	A/AC.109/2041 and Corr.1
Saint Helena	A/AC.109/2043
American Samoa	A/AC.109/2044 and Add.1
Anguilla	A/AC.109/1045
New Caledonia	A/AC.109/2046
Guam	A/AC.109/2047 and Add.1
Falkland Islands (Malvinas)	A/AC.109/2048
East Timor	A/AC.109/2049 and Corr.1 and 2
Tokelau	A/AC.109/2050
Turks and Caicos Islands	A/AC.109/2051
Montserrat	A/AC.109/2052
Cayman Islands	A/AC.109/2053
United States Virgin Islands	A/AC.109/2054 and Add.1
British Virgin Islands	A/AC.109/2055
Pitcairn	A/AC.109/2056
Gibraltar	A/AC.109/2057
Western Sahara	A/AC.109/2059

ANNEX V

General Recommendation on the rights of indigenous peoples, adopted by the Committee, at its 1235th meeting, on 18 August 1997

1. In the practice of the Committee on the Elimination of Racial Discrimination, in particular in the examination of reports of States parties under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination, the situation of indigenous peoples has always been a matter of close attention and concern. In this respect, the Committee has consistently affirmed that discrimination against indigenous peoples falls under the scope of the Convention and that all appropriate means must be taken to combat and eliminate such discrimination.

2. The Committee, noting that the General Assembly proclaimed the International Decade of the World's Indigenous Peoples commencing on 10 December 1994, reaffirms that the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination apply to indigenous peoples.

3. The Committee is conscious of the fact that in many regions of the world indigenous peoples have been, and are still being, discriminated against and deprived of their human rights and fundamental freedoms and in particular that they have lost their land and resources to colonists, commercial companies and State enterprises. Consequently, the preservation of their culture and their historical identity has been and still is jeopardized.

4. The Committee calls in particular upon States parties to:

a. recognize and respect indigenous distinct culture, history, language and way of life as an enrichment of the State's cultural identity and to promote its preservation;

b. ensure that members of indigenous peoples are free and equal in dignity and rights and free from any discrimination, in particular that based on indigenous origin or identity;

c. provide indigenous peoples with conditions allowing for a sustainable economic and social development compatible with their cultural characteristics;

d. ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent;

e. ensure that indigenous communities can exercise their rights to practise and revitalize their cultural traditions and customs and to preserve and to practise their languages.

5. The Committee especially calls upon States parties to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and

territories. Only when this is for factual reasons not possible, the right to restitution should be substituted by the right to just, fair and prompt compensation. Such compensation should as far as possible take the form of lands and territories.

6. The Committee further calls upon States parties with indigenous peoples in their territories to include in their periodic reports full information on the situation of such peoples, taking into account all relevant provisions of the Convention.

ANNEX VI

Country rapporteurs for reports considered by the Committee at its fiftieth and fifty-first sessions

Reports considered by the Committee	Country rapporteur
AFGHANISTAN Review based on previous report and review undertaken in 1985 (CERD/C/111/Add.3 and A/40/18, paras. 349-370)	Mr. Rüdiger Wolfrum
ALGERIA Eleventh and twelfth periodic reports (CERD/C/280/Add.3)	Mrs. Shanti Sadiq Ali
ARGENTINA Eleventh, twelfth, thirteenth and fourteenth periodic reports (CERD/C/299/Add.11)	Mr. Régis de Gouttes
BAHAMAS Review based on previous report and review undertaken in 1991 (CERD/C/88/Add.2 and A/46/18, paras. 344-346)	Mr. Carlos Lechuga Hevia
BELARUS Fourteenth periodic report (CERD/C/299/Add.8)	Mr. Theodoor van Boven
BELGIUM Ninth and tenth periodic reports (CERD/C/260/Add.2)	Mr. Ion Diaconu
BULGARIA Twelfth, thirteenth and fourteenth periodic reports (CERD/C/299/Add.7)	Mr. Rüdiger Wolfrum
BURKINA FASO Sixth, seventh, eighth, ninth, tenth and eleventh reports (CERD/C/279/Add.2)	Mr. Ion Diaconu
BURUNDI Seventh, eighth, ninth and tenth periodic reports (CERD/C/295/Add.1)	Mr. Rüdiger Wolfrum

CAMEROON Review based on previous report and review undertaken in 1990 (CERD/C/171/Add.1 and A/45/18, paras. 299-309)	Mr. Régis de Gouttes
DENMARK Thirteenth periodic report (CERD/C/319/Add.1)	Mr. Rüdiger Wolfrum
DOMINICAN REPUBLIC Review based on previous report and on review undertaken in 1990 (CERD/C/165/Add.1 and A/45/18, paras. 230-235)	Mr. Luis Valencia Rodríguez
ETHIOPIA Review based on previous report and review undertaken in 1990 (CERD/C/156/Add.3 and A/45/18, paras. 152-165)	Mr. Andrew R. Chigovera
GERMANY Thirteenth and fourteenth periodic reports (CERD/C/299/Add.5)	Mr. Andrew R. Chigovera
GUATEMALA Seventh periodic report (CERD/C/292/Add.1)	Mr. Mario Jorge Yutzis
ICELAND Fourteenth periodic report (CERD/C/299/Add.4)	Mr. Luis Valencia Rodríguez
IRAQ Eleventh, twelfth and thirteenth periodic reports (CERD/C/240/Add.3)	Mr. Rüdiger Wolfrum
ISRAEL Review based on previous report and review undertaken in 1991 (CERD/C/192/Add.2 and A/46/18, paras. 364-388)	Mr. Theodoor van Boven

JORDAN Review based on previous report and review undertaken in 1990 (CERD/C/183/Add.1 and A/45/18, paras. 36-48)	Mr. Theodoor van Boven
LUXEMBOURG Ninth periodic report (CERD/C/277/Add.2)	Mrs. Shanti Sadiq Ali
MEXICO Eleventh periodic report (CERD/C/296/Add.1)	Mr. Régis de Gouttes
MONGOLIA Review based on previous report and review undertaken in 1989 (CERD/C/172/Add.10 and A/44/18, paras. 213-229)	Mr. Agha Shahi
NEPAL Review based on previous report and review undertaken in 1987 (CERD/C/148/Add.1 and A/42/18, paras. 516-529)	Mrs. Shanti Sadiq Ali
NORWAY Twelfth and thirteenth periodic reports (CERD/C/281/Add.2); and fourteenth periodic report (CERD/C/320/Add.1)	Mr. Yuri A. Rechetov
PAKISTAN Tenth, eleventh, thirteenth and fourteenth periodic reports (CERD/C/299/Add.6)	Mr. Ivan Garvalov
PANAMA Tenth, eleventh, twelfth, thirteenth and fourteenth periodic reports (CERD/C/299/Add.1)	Mr. Eduardo Ferrero Costa
PHILIPPINES Eleventh, twelfth, thirteenth and fourteenth periodic reports (CERD/C/299/Add.12)	Mr. Ivan Garvalov

POLAND Thirteenth and fourteenth periodic reports (CERD/C/299/Add.10)	Mr. Agha Shahi
RWANDA Review based on previous report and review undertaken in 1989 (CERD/C/169/Add.1 and A/44/18, paras. 196-212)	Mrs. Shanti Sadiq Ali
SEYCHELLES Review based on previous report and review undertaken in 1988 (CERD/C/128/Add.3 and A/43/18, paras. 70-74)	Mr. Luis Valencia Rodríquez
SWAZILAND Fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth and thirteenth periodic reports (CERD/C/299/Add.2)	Mrs. Shanti Sadiq Ali
SWEDEN Twelfth periodic report (CERD/C/280/Add.4)	Mr. Mario Jorge Yutzis
THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA Initial, second and third periodic reports (CERD/C/270/Add.2)	Mr. Yuri A. Rechetov

Country rapporteurs for States parties which have not yet filed an initial report and which were considered by the Committee at its fifty-first session

States parties considered by the Committee	Country rapporteur
GUYANA	Mrs. Shanti Sadiq Ali
SURINAME	Mr. Régis de Gouttes

ANNEX VII

List of documents issued for the fiftieth and fifty-first sessions of the Committee

CERD/C/240/Add.3	Eleventh, twelfth and thirteenth periodic reports of Iraq, submitted in one document
CERD/C/260/Add.2	Ninth and tenth periodic reports of Belgium, submitted in one document
CERD/C/270/Add.2	Initial, second and third periodic reports of the former Yugoslav Republic of Macedonia, submitted in one document
CERD/C/277/Add.2	Ninth periodic report of Luxembourg
CERD/C/279/Add.2	Sixth, seventh, eighth, ninth, tenth and eleventh reports of Burkina Faso, submitted in one document
CERD/C/280/Add.3	Eleventh and twelfth periodic reports of Algeria, submitted in one document
CERD/C/280/Add.4	Twelfth periodic report of Sweden
CERD/C/281/Add.2	Twelfth and thirteenth periodic reports of Norway, submitted in one document
CERD/C/292/Add.1	Seventh periodic report of Guatemala
CERD/C/292/Add.2	Second, third, fourth, fifth, sixth and seventh periodic reports of Cambodia, submitted in one document
CERD/C/295/Add.1	Seventh, eighth, ninth and tenth periodic reports of Burundi, submitted in one document
CERD/C/296/Add.1	Eleventh periodic report of Mexico
CERD/C/299/Add.1	Tenth, eleventh, twelfth, thirteenth and fourteenth periodic reports of Panama, submitted in one document
CERD/C/299/Add.2	Fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth and thirteenth periodic reports of Swaziland, submitted in one document
CERD/C/299/Add.4	Fourteenth periodic report of Iceland
CERD/C/299/Add.5	Thirteenth and fourteenth periodic reports of Germany, submitted in one document

CERD/C/299/Add.6	Tenth, eleventh, twelfth, thirteenth and fourteenth periodic reports of Pakistan, submitted in one document
CERD/C/299/Add.7	Twelfth, thirteenth and fourteenth periodic reports of Bulgaria, submitted in one document
CERD/C/299/Add.8	Fourteenth periodic report of Belarus
CERD/C/299/Add.10	Thirteenth and fourteenth periodic reports of Poland, submitted in one document
CERD/C/299/Add.11	Eleventh, twelfth, thirteenth and fourteenth periodic reports of Argentina, submitted in one document
CERD/C/299/Add.12	Eleventh, twelfth, thirteenth and fourteenth periodic reports of the Philippines, submitted in one document
CERD/C/319/Add.1	Thirteenth periodic report of Denmark
CERD/C/320/Add.1	Fourteenth periodic report of Norway
CERD/C/321	Provisional agenda and annotations of the fiftieth session of the Committee on the Elimination of Racial Discrimination
CERD/C/322	Submission of reports by States parties in accordance with article 9 of the Convention for the fiftieth session of the Committee on the Elimination of Racial Discrimination
CERD/C/323	Consideration of copies of petitions, copies of reports and other information relating to trust and Non-Self-Governing territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention
CERD/C/324	Provisional agenda and annotations of the fifty-first session of the Committee on the Elimination of Racial Discrimination
CERD/C/325	Submission of reports by States parties in accordance with article 9 of the Convention for the fifty-first session of the Committee on the Elimination of Racial Discrimination
CERD/C/SR.1185-1244	Summary records of the fiftieth and fifty-first sessions of the Committee on the Elimination of Racial Discrimination

ANNEX VIII

Comments of the Government of the Philippines on the concluding observations adopted by the Committee on the Elimination of Racial Discrimination* on the eleventh to fourteenth periodic reports of the Philippines presented during the fifty-first session of the Committee

In connection with paragraphs 12 and 13 of your observations, we would like to call your attention to our Presidential Decree 1350-A of 1978 which we forwarded to you on 12 August 1997 and which clearly provides that:

"...

"SECTION 1. All organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, are hereby illegal and prohibited.

"SECTION 2. All public authorities or public institutions, national or local, are hereby prohibited to promote or incite racial discrimination.

"SECTION 3. Any violation of this Decree, as well as of article 4, paragraphs 5 (a), (b) and (c), of the International Convention on the Elimination of All Forms of Racial Discrimination, is hereby declared contrary to law and the violator shall, upon conviction suffer ..."

In view of Presidential Decree 1350-A of 1978, we believe that a statement that there is no specific legislation prohibiting racial discrimination is not accurate. As we have explained, Presidential Decrees enacted during Martial Law declared in 1972 are, in effect, legislation because during that time the President had both executive and legislative powers.

With respect to article 7 of the Convention, the Executive Order regarding education on human rights includes the Convention. With respect to article 2 of the Convention, there is no discrimination law that needs to be repealed. Moreover, a treaty which is clear enough is part of the law of the land per opinion of the Secretary of Justice.

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* CERD/C/304/Add.34. See also paras. 409-438 of the present report.